

A

Lawyers Vnmask'd. c#

O R,

A Discovery of their
Matchless Villanies, Intol-
erable Oppressions, and most
accursed practizes in perver-
ting the known Lawes of England
from Summons to an illegall
Capias for Debt.

By which is discovered the
great benefit and freedome that will
accrow to the people of the Common
wealth by the reformation of
that destructive Law.

With an appeale to the present Pow-
er for regulating the Law.

By *John Jones* of *Neyath*, in
Com. Brecon. Gent.

The Contentes wherof is in the next page

Luk. 11. 46. *Woe unto you Lawyers, for
ye lade men with burthens grievous to
be borne, &c.*

London, Printed for *Thomas Matthewes*
at the Cock in Saint Paul's
Church-yard. 1653.

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r.

SEVEN
TREATISES
IN

Reference to the Reforming of
the Law and Lawyērs.

1. Every mans case , or Lawyērs
Routed.
2. The *Judges* *Judged* out of their
own mouths.
3. Eight observable points of Law,
fit to be known by every *Justice*
of *Peace*.
4. The authority of a *Justice* of *Peace*.
5. The new *Returna Brevium*; or the
Law returned from *Westminster*:
to which is added the *Petition* of
Right granted by King *Charles*
the first.
6. *Jurors* , *Judges* both of *Law* and
Fact.
7. Theery of bloud ; or a true an-
swer to those 13 false Reasons of
the *Filicers* , *Attornies* , &c. for
the maintenance of *Capias*, and
Arrest of men's bodies for Debt.



TO HIS
EXCELLENCIE
OL. CROMVEL,
Lord General of the
Army of the Common-
wealth of *England*.

The Humble Petition of *John
Jones* Gent. and others.

Shewing,

Hat whereas your Petition-
ner *Jones*, and another
were committed and kept
prisoners in the Fleet by the *Bar-
ons* of the exchequer, for execu-
ting Commissions under the Seal
of that Court, and Teste of the Lord
wild for the discovering of diverse
lands in diverse Counties forfeited
to the Common-wealth, and con-
cealed from them: which your Pe-
titioners have found out by the

Oaths of lawful men, and returned as they were commanded, some of them to the said Court upon the expirations of their Commissions. And have another unexpired with the Inquisitions thereupon made & found in their hands, which Commissions and Inquisitions that were filed, the said Barons having notice by the Lawyers hired to attend them by the Concealers of the said Lands, that the Petitioner *Jones* wrote the book called *Judges judged out of their own mouths*, and other books which he dedicated to your honour and your Army, against corrupt Lawyers and their unlawful practises, for their own unconscionable gaines and extortions contrary to all Law, Justice and Equity, & in subversion thereof, In their malignity to *Jones*, looked upon their own Commissions as erroneous and unwarrantable by Law (though presided by learned and Judicious Lawyers in former ages) which presidents, the now Barons and Lawyers disregarding for the respect aforesaid, have ordered all the said Commissions to be suppressed and no more such to issue. And those that

that were together with the said In-
quisitions thereupon to be vacated,
to the damage of the Common-
wealth found & to be fined 100000.
The legallity of which proceed-
ings is a matter of great concern-
ment decidable by Law, wherein (if
the Barons have erred in their
Commissions, and Commands) The
Commissioners that did but exe-
cute the same, ought not to be in-
prisoned and condemned by such
Barons, nor the Common-Wealths
Interest be determined, or waved
by them, without Consent of Par-
liament and decision of the law up-
on the matter at large, being too
much mischief to be committed or
suffered to be done to the Common-
wealth in the general, your Peti-
tioners in particular, and to the Law
it self by such unstable Barons, as
dare assume the chair of Judicature,
upon the strength of their late un-
reasonable Statute for their excuse
by way of misprision. Which is as
much to say they may do what they
list under the name of mistake.
And so they may mistake not onely
the Law of *England*, but also the
Law of God in both Testaments. In
all

all which it is an Infallible Scripture, Ignorance is no Plea.

The premisses tenderly considered, may it please your honours to mediat to the house that the committee for the Regulating of the Law be empowered to examine the Petitioner Jones and all his proceedings, and the legallity thereof, according to the ancient practise of the fundamental Law of England; and also the illegallity and present practise of the now Judges and Lawyers, contrary to the former, and to certifie their opinions therein to the house for Reformation to be had as to Law shall appertain. And that none of the Judges or professed Lawyers, who have declared themselves, your Petitioner Jones his adversaries, be admitted to be his Judges, though members of the house, or of the Committee aforesaid. And that the Warden of the fleet be required to Inlarge your Petitioner Jones upon Reasonable bayle to attend the said Committee, and the house, until his cause be determined. And that the Barons be Commanded forthwith to restore the said Commissions and Inquisitions

tions to the file, which they have ordered to be taken off. And to issue more such Commissions to any that shall require them in the behalf of the Common-wealth. And that the Commission & inquisitions remaining in the Petitioners hands be returned to th: said Committee to be determined accordingly.

And your Petitioner
Jones shall pray, &c.



Dedi-



Dedicated to the Commonwealth in general with this short epistle, As the voice of the people is said to be the voice of God, let the glory of God be the voice and vore of his people.

Amen yours *John Jones.*

The case is.

That Right once so known ought to be so continued and maintained to the Right heir by the supream magistrate, who is the Immediat vice-gerent of God the Father, Protector of Right and truth, and hater of deceipts, and falsities, nay is all and always himself nothing but Truth, Right, Justice, Love, Mercy, and Equity, unchangeable, everlasting, whose vice-Royes therefore ought not to carry his sword in vain, but defend Right, and cut off wrong at all times, all opposers and oppositions

to

to the contrary notwithstanding:
 And to restore and Revive right, if
 suppressed or mortified by any
 force or fraud: how or how long
 soever any false laws, made by false
 Lawyers, contrary to the laws of
 God and Nature, and to the great
 Charter of *England* notwithstand-
 ing, proved by principles of Divi-
 nity, maxims of Law, And axioms
 of Philosophy as followeth.

God is almighty *Gen. 17. 1.* yet
 cannot lie *Heb. 6. 18.* Lawyers can
 bend their tongue like a bow to
 speak lyes *Jer. 39. 5.* (In every court
 at *Westminster* nothing more com-
 mon, especially Chancery) They
 have made their statutes of cham-
 pertite to deter all men but them-
 selves to take any part of poor
 mens Rights, to recover the rest from
 their oppressors, that forcible and
 fraudulently detain all from them:
 their statutes of Fines and Recove-
 ries to Establish the Right of the
 oppressed in the oppressor, their
 statute of Limitation to continue
 that wrong for ever, that cannot be
 righted within such a time as to
 their gain by both parties: They spin
 out with delays in Law, and
 B make

make the right that it can be but Remediless by their Law for ever. Their Statutes to imprison men for debt, and make all bankrupts to enrich themselves, and many more, which I shall not here speak of in particular, but wish them for all their Inventions in general, to hear the word of the Lord, saying, ye scornful men that Rule his people, because ye have said we have made a Covenant with death, and with hell are we at agreement. When all the over-flowing scourge shall pass through, It shall not come unto us, for we have made lies our Refuge, and under falsehood have we hid our selves; *Isa. 28. 15.* Therefore thus saith the Lord, I lay in Zion, for a foundation, a stone &c. Judgement also will I lay to the line, and Righteousness to the plummet, and the hail shall sweep away the Refuge of lies &c. And your Covenant with death shall be disannulled &c. When the over-flowing scourge shall Pass through, then ye shall be troden down by it *vers. 16. 17. 18.*

- 2 God is everlasting *Deut. 33. 27.*
 Immutable in his promise and
 divine Counsel *Heb. 6. 18.* his truth
 endured

endureth to all generations *Psal.*
 100. 5. 117. 2. 146. 6. But the Vi-
 perous generation of Lawyers con-
 fine and limit it by their Statutes,
 that it shall by their consents in-
 dure no longer, nor reach further
 than they please. The lip of truth
 shall be established for ever. *Prov.*
 12. 16. But Lawyers lips and la-
 bour run counter. Buy the truth
 and sell it not *Prov.* 23. 23. But
 Lawyers sell the Law which in it
 self is truth, and buy false titles. And
 purchase to themselves great Reve-
 nues without Right *Psal.* 19. 8.

God is a god of truth *Psal.* 31. 3
 9. *Isa.* 65. 16. *Jer.* 10. 16. 2. *Cor.* 1.
 18. And Commandeth his children
 not to lie one to another. *Levit* 19.
 11. *Col.* 3. 9. And a Righteous man
 hateth lying *Prov.* 33. 5. The devil
 is the father of lies and liars *Joh.* 8.
 44. He that speaketh lies shall not
 escape *Prov.* 19. 5. but shall perish:
vers. 9. If a Ruler hearken to lies,
 all his servants are wicked: *Prov*
 29. 12. our Lawyers love lying and
 make their livings thereof. Whose
 sons and servants they be, I leave
 to the Judgement of God and his
 Saints.

God is a God of peace, yea even the everlasting Father and Prince of peace, of the Increase of his government and peace, there shall be no end, upon the throne of David and upon his kingdom to order it and to establish it with Judgement, and with Justice, from henceforth even for ever. The zeal of the Lord of hosts will perform this *Isa. 9. 6. 7.* Now my Lord General, and all you valiant and incomparable Commanders, officers & souldiers of the hoast of God, raised and continued by Gods providence for the Reformation, as well as preservation of this our *English, Israel*, digest these promises of the Lord of hosts into your hearts, Act them with your hands, confide in his zeal who telleth you he will perform, & feare not the vain threats of Babling lying Lawyers, who out of the confusion which they find in their Consciences, since they are uncase of their Canting pedlers french, have lately and frequently menaced you behind your backs, that if you should offer to ungown them, they would unsword you: yet perswade you to your faces
that

that their said Statutes and the like were by their predecessours devised, and are by them maintained for preservation of peace. Consider what peace it is that establisheth wrong instead of Right deceit & falsehood instead of Truth and Righteousness. Is it a peace for any but themselves and their Adherents, to withhold their wrongfull possessions from the Right heirs and owners. Doth not the Lord tell you and them, there is no peace to the wicked? *Isa.* 48. 22. And *Moses* forbid you to seek their peace, *Deut.* 23. 6. Have not you a further promise of God which concerneth not them, saying, the Lord will bless his people with peace *Psal.* 29. 11. Not Scribes and Pharises, the chief Lawyers in Christs time, who denounced eight woes against them. *Matth.* 23. *Luke.* 11. And not such peace as can be separated from Righteousness, for saith the Royal Prophet, Righteousness and peace have kissed each other *Psal.* 85. 10. Believe them not therefore that have healed the daughter of my people slightly, saying peace, peace, when

B 3

there

there is no peace. Were they ashamed when they committed abomination, nay they were not at all ashamed, neither could they blush, Therefore they shall fall amongst them, that fall at the time that I visit them. They shall be cast down saith the Lord *Jer. 6. 14. 15.*

3 God is a God of Love, and commandeth each child of his, thou shalt love thy neighbours as thy self, *Levit 19. 18. Matth. 5. 43. Mark. 12. 31.* were Lawyers Gods children, and loved their neighbours as themselves, how could they cheat them as they do, and possess themselves and their brood by force, fraud and deceit of all they can of their neighbours rights, and by such means make themselves so potent and numerous a generation, as they are in this land. Yet if thou shalt say in thy heart These nations are more than I, how can I dispossess them. Thou shalt not be affraid of them: But shalt well remember what the Lord thy God did to *Pharaoh*, and unto all *Egypt Jer. 7. 14. 15.* Thou shalt love the Lord thy God, and keep his charge and his Statutes, and his

his Judgements and his Commandments always. And know you this day, for I speak not with you children, that have not known and which have not seen the Chastisements of the Lord your God, his mighty hand and stretched-out Arm, and his miracles &c. *Deut 11. 1. 2. 3.* Oh love ye the Lord all his Saints, because he hath set his love upon you. Therefore will he deliver you *Psal 91. 14.* But favour no oppressour, and know that in a magistrate to spare them is to help them: Which who doth, let him hear what the Son of a Prophet asks such a magistrate, and Answers himself. Shouldst thou help the ungodly, and love them that hate the Lord: Therefore is a wrath upon thee from before the Lord 2. *Chron. 19. 2.* And learn of a Prophet these ensuing Characters of the ungodly. Who hate the good and love the evil, who pluck their skins from off them, and their flesh from their bones, and chop them in pieces as for the pot, and as flesh within the Cauldron (who when they shall be visited) Then shall they cry unto the Lord, but he will not hear them.

them, he will even hide his face from them at that time as they have behaved [themselves in their doings, Thus saith the Lord concerning the Prophets that make (his) people err, that bite with their teeth and cry Peace *Micah* 3. 2. 3. 4. 5. More principles of divinity could I alleadge for this purpose, might I think these Joyned with all our experiences should not suffice to describe our *westminster* Lawyers, in their own kinds and colours, but believieng thus much will serve for this time, I shall apply my self to the Maxims of the Law of *England*, which I find conducing to the same end as followeth.

First Right cannot dye saith *Littleton*, Sect 479. And *Cook* upon the place fol 279. Yea, although the disseised should Release his Right to the disseisee, or turn Tenant, It is inconvenient that the Right should dye, but live Recoverable in and to his heir. Which is true (as all Maxims are or ought to be) How can our Recent and present Judges and Lawyers, that murder this everlasting Right with their Statutes of Fines, Limitations,

Et c.

&c. maintain their predecessors
 Inventions against the Law of God,
 the great *Charter*, and this Maxim,
 without appearing manifest sub-
 verters of the Law of *England*,
 which Doctor & Student affirmeth,
 and the mirrour of Justice proveth
 punctually by Analysis. And these
 men themselves sometimes bragg
 of to be derived from, and grounded
 upon the Laws of God, and nature,
 According to the Advise of *Eleu-*
therius the 3. to King *Lucius* recor-
 ded by M^r *Fox* & others, and con-
 sequently Traitors to the Law and
 Common-wealth, whose estates Re-
 al and Personal ought to be con-
 fiscated to the use of the Common-
 wealth, from which they filched
 them (as I have proved to be their
 own censures in my treatise called
Judges judged out of their own
 mouths) And their costly Carrion
 Carcases, fit to be hanged as 44.
 of their predecessors were in one
 year in King *Alfreds* time, as
 witness the mirrour page 239. 240.
 241. 242. 243. *&c.*

Secondly it is a Maxim of *Plou-* 2
den in his Commentaries upon the
 Law of *England*, Resolved in the
 Earl

Earl of Lesters Case. That all humane Laws made contrary, or not consentaneous to the Laws of God and nature, although by Acts of Parliament, are void, and need no Repeal to vacate them: Which if true, how can our filices maintain their blasphemous Reasons Printed, and published under their hands, and Continue their extortions. And how can the Judges and pleaders of the Law Countenance or suffer them and their prothonotaries, and the Rest of their ministers, to continue their said extortions, and increase them more than ever before? And do the same themselves without incurring the penalties aforesaid.

3

Thirdly it is a positive Maxim of Law declared in the great *Charta* cap 29. That no freeman of *England* shall be disseised of his Inheritance or birth-right, without the Judgment of his peeres and vicine neighbours. Which if so, how can any disseisor disseise or dispossess any freeman of *England* of his inheritance or birth-right by force or fraud? Or how can any Judge or pleader of the Law countenance,

maintain

maintain, or suffer such disseises unrestored by them to the right heirs without incurring like penalties as aforesaid.

Fourthly it is another Maxime declared in the said *Charter* cap. 11. and approved by the mirrour page. 234. That no *Common Pleas* shall follow the upper bench (which if true) how can the Judges of the upper bench by Law Commit men for debt, which is a *Common Plea*? That hath no Relation to felony, trespass upon the case, trespass *vi et armis*, or any trespass at all, to their marshallsey, or any bayliff arrest them, or any Gaylor Receive & detain them, upon bills of Middlesex, and Latitates (which expressly ~~run~~ for Trespass) and fawmish them to death (an Incomparable false Imprisonment and murder) in the name of Law and Custom because long practised, not onely without any colour of Law, but expressly against it without incurring like penalty as aforesaid.

Fifthly it is a chief Maxim of the Law of *England*, that the Law it self is and ought to be the onely Right, full, and sufficient, Rule of all

all Judges and Lawyers, by which they ought to be ruled, and not offer or presume to over-rule their Rule, which if they could but rightly understand (saith *Cook* upon *Magna Charta*) would never suffer them to err; had *Baron Tomlin* understood this Rule, he had not tumbled himself upon his tellock seat as he did to convey the poor opinion of a pratling Barrester, which stood on his left hand to another Baron that sat on his Right, to hasten my Commitment to the fleet, in respect of my books, not my cause or had his fellow Barons known how unlawfull it is that I should be examined upon interrogatories, by or before such Judges as declared themselves my adversaries, in their open Court. Or how little I care for their malice, I believe they would not have been so hasty to commit me as they were, but shall Judges and Lawyers, that profess knowledge in Law, subvert it when they please, by pleading misprision, that is to say mistake. And their late Statutes made for that purpose, and alleadging, that if they should be hanged, none would be
 Judges

Judges after them. Did King *Alfred* find it so, did not a heathen King make the Son sit Judge over a cushion, which he had caused to be made of his fathers skin, His Predecessor Judge in the same place, to mind him, that if he would violate the Law as his father did, he would serve him alike? doth not our Law compell men to be Shreiffs and Constables &c. If they Refuse being chosen? And do not we find such Refusers, when they are sworn officers, firrter and honestier men than offerers. Are not Ignorant intruders without either choise or approbation of their Countries, worthiest to be hanged of all Interlopers, for taking & keeping places of Judicatures from more knowing Justicers; Baron *Thorpe* insisted much in Court upon the statutes of misprision, whereof a Judge of his name could make no use to save his hanging, nor did his hanging deter the Baron to become a Judge, & an over-ruler of the exchequer Court, though not half so knowing a Justice as his names sake, or *wild* his foreman. Who is so Just as to detain 500. l. Land a year from the Right

heir, without any good title (as is Reported) And therefore thought it Just to wayve and damane his own Commission to Inquire for such things, and punish me for the executing of it. To conclude this point, were all prevaricating Lawyers hanged, honest men would be found for their places. And have they not incurred the said penalty by this Maxim.

6

Sixthly, it is a Maxim of truth and common reason, chief grounds of our Common-Law, That force, fraud and deceit are the greatest opposites and enemies to all Just Laws. And that all Just Laws are or ought to be sufficiently powerful to subdue and supplant them. And that therefore it is that the sword is put into the Magistrates hand not to hold in vain. And wisdom put in his head to discern and prevent, or punish frauds and deceits more dangerous than force, because more clandestinely acted & under colour of Law, while force thrusteth it self to fight, and defies Justice to her face, chance what will. This is Justice Northyes Resolution, the other Bayliff, and will

mot. But do not all such Judges, as prefer wrong before Right, and falshood before truth, Incurr the said penalty.

Seventhly, it is a Maxim of Reason, that all nations are or ought to be governed by Just Laws. And that their supream Magistrates should want no Power or means to execute their Laws, so that their Subjects should have Right at all times without delay or partiality, or more cost than the cure is worth. And thus much was agreed upon between the Kings people of *England*, in and by the great *Charter* cap 29. And is not the great *Charter* confirmed by above 33 Parliaments, corroborated upon the Petition of Right *Tertio Caroli*, and Ratified by this Parliament, which if it be so, how can it be said that any Statutes made contrary to the Law of God and nature, and the great *Charter*, shall stand up against them, although not expressly Repealed. Or how can they be alledged to bind the supream Magistrates, that are sworn to do and maintain Right and Justice to all men, at all times, in all places

of the land by their proper subordinates in every County from so doing, but by traitors to God and the Common-Wealth? or how can the Judges at *Westminster* confine and contract all the Law of *England* in and to *Westminster*, and into 4 terms yearly to be onely determined by them, that surcharged with multiplicity & abundance, end not a Rich cause in 7 years, nor a poor mans while he lives. And when they seem to finish a cause or decree or Judgment, it is more to their gain than their necks are worth, and cost to their Judicated than their causes are worth, (nor do they commonly finish any cause at any time, but leave it upon a quillet, whereupon to revive it at their pleasures without their incurring like penalties as aforesaid.

- 8 Eighthly, and lastly, It is a common Maxim, not onely of common reason, but also of the express Law of *England*. That by the Law of the Land no man is bound to accuse himself; If so, what meaneth the Jesuitical Spanish Inquisition, Introduced to the Exchequer and Chancery of *England* to

interrogate men against themselves, and imprison them untill (to attain their liberties) many faint-hearts are forced to perjure themselves, to accuse themselves of things whereof they are guiltless. That Judges and Lawyers and their Impes may beget causes to extort Fees as well by Innocent mens forced Oaths against themselves, as by their own wilfull and malicious perjuries against all men but themselves. Whereby contrarie to Saint Pauls Doctrine, that an Oath for confirmation is unto men an end of all strife, *Heb. 6. 15.* Lawyers make it a beginning, and contrarie to Gods commandment, saying, love no false Oath, *Zachar. 8. 17.* Lawyers love to force, procure, and multiply them. And shall they not incur the said penalty by this Maxim?

So much for Law Maxims for this occasion at this time, to conclude with Axioms of Philosophy conducing to this matter.

Health is the greatest happiness man can desire. *Sphinx Theologica Philosophica de Medicina, pag. 539.* It is twofold, that is to

say, first of the Soul, for which Christ is the onely Physician, who to ease man of his sin, the chief cause of all diseases, both Ghostly and humane, took upon himself, that had none, all the sins of the World. And died to redeem all penitents from eternall death, the due punishment for sin. The second is of the body, for which the best man *Physician* called by God to that vocation, and gifted accordingly, is to be honoured before many, because by his faculty with Gods assistance the Corporal afflictions of many are restored to sound health, the agony of others qualified; And which is most of all worthy consideration, stayes the Souls of many in the prisons of their bodies (by Gods Providence) untill longer and seasonable times of Repentance & amendment of their lives. And these are the gifts of God, and endeavours of good Physicians.

Contrary-wise our Judges and Lawyers, and their monstrous many headed whelps require their patient profitablest clients with,
not

not onely sickness both of souls & bodies, but also the death of both, so far as in their power lieth, as is proved by wofull experience thus. Debtors, not able to pay their debts, are committed for their debts upon *capiases*, *Latitates*, and *out-laries* for trespass, by the Judges of the upper bench, being no Judges in that case, to their marshallsie; become there sickned in their minds and souls upon such their commitments, considering there is no Law to Warrant such doings, but the willfull Customs and practise of the said supposed Judges, to murder men in and under the name of their Law, for their own gain and superfluities, worse than high-way-men that act manfully to relieve their wants. By the name and Custom of Lawless necessity, for which, if convicted of the fact, they submit to the Law, which Lawyers would defeat by calling their facts misprisions, which in effect are prises less lawfull than Robbers, and more abusfull to the Law and Common-Wealth, because committed under colour of Law
and

and Justice. Further the sickness of the minds and souls imprisoned, is aggravated with the consideration of the wants, and miseries which their wives, children and families (that were wont to be sustained by their libertie to care and provide for them) must indure by their Captivitie, their bodies and their families participating of these and more griefs of their souls. But more sensible of their hunger and thirst, cold, and nakedness when they have sould even their apparrell as well for night as day, to pay their Goalers and their masters extortions; and prolong their own miseries so farr as their abilities last. And the cruelty of their Goalers (when they fail to bribe them) in crouding them in dungeons where they must infect one another, with a necessitated Contagion caused by their Goalers covetousness, to gain by hiring all the Rooms and liberties of the prison, ordained by Law to lawfull prisoners, to cheators, voluntary prisoners, & willfull assumers of the denomination of prisoners, to defeat their Creditors of their Rights
by

by which they live Riotously upon their Creditours charge, & their Creditours perish for want of their own. Judges, Lawyers, Gaolers live, & flourish by the ruine of them both, granting liberties to all such said cheatours, contrary to all Law, to walk and take their pleasures as they list, some throughout *England*, and others to the East and West-Indies. And thereby feasting their bodies and their Impes upon the fast of their finders, and thriving in their wickedness till God rebuke them. The Warden of the Fleet I find by Law is no Goaler within the Statute of *H. 6.* And by experience a Gentleman mercifull and affable to the poor, satiable and unburthenfom to the Rich, compassionate, and comfortable to all his prisoners, so that (by Gods providence and his clemency,) he and we live wholsom in our bodies, and cheerfull in our hopes. I write not this digression in flattery; but in duty to declare truth as I find it. So returning to my tenet, it is the sickness and death of the Souls and bodies of all their Clyents and their Families, (except those of their
 Consorts

Consorts) that the Art of our modern Lawyers practiseth upon, And if perchance they ease a Rich clyent of some part of his pain for their own extraordinary gain (except their deed be taken for their will) they shall hardly obtain heaven by their merit. These are the instigations of the Devil, & indeavours of bad Lawyers. It is the health of their patients souls and bodies that the art of Physitians worketh upon. And although some Medicasters, that have not the art, Intrude into the profession, and kill more than they cure for want of skill, not good will, their will being taken for their deed pleads more in mercy than Lawyers misprisions.

- 2 It is an Axiom which *Theodectes* a famous Philosopher, Cited by *Stobaeus* in his 66. Sermon, That all men endowed with natural abillities desire 2 things before they have them, which many when they have them, desire to be rid of. That is to say old age and wives. *Cicero* upon *Cato Major* maintaineth the same in effect. The causes of these 2 desires are two soules. That is to say in good men for

divine

divine ends, In bad men for their worldly pleasures, Their *summum bonum*, beyond which they have neither hopes nor desires : But for the desires of good men to be old men, *Ambrose Hex lib 1.* saith, that although old age, in most men, is most subject to corporal Infirmities, It sooner endeth the miseries of this life, and openeth the gates to a happier. In good manners it is most decent, In Counsel most subtile, in constancy to embrace death most stable, in Repressing lusts most strong, and finally the Infirmities of the body, is the sobriety of the mind.

In bad men their desire of old age is to prolong their earthly pleasures in their enjoyment of other mens Rights, which they possess by force, or fraud or both, and furnishing the Right heirs in dungeons, while they pamper their own bodies and their Impes in their sumptuous Pallaces, built upon their prisoners Inheritances. Living in which Condition we may observe them in their health secure, in their sickness timorous, and Commonly distracted, in their deaths

deaths desperate, in manners riotous, in counsel wicked, in lusts insatiable, finally the strength of their bodie is the madness of their minds. And are not these the true Characters of our Lawyers and their adherents. To the next point, good men love to meet with good Wives, like *Isaac* and *Rebecca*, to be their Consorts, Comforts and helpers in goodness, to propagate *Saints* as well by their examples of life and Conversation, as by their naturall endowments to accomplish the end of their Creations, that is to say, to fullfill the number of the elect, to inherit the Kingdom of Heaven by the merits of their Saviour. And in the time of their pilgrimage, and way thither, to indeavour the Increase of the glory of God, and the Peace, Love, and Unity, of his people in this world. Bad men desire wealthy wanton mercenary Wives, to be their Companions and helpers in mischiefs, as *Isabel* was *Achab*. To incarnate and multiply Devils as well by their examples of life and Conversation, as by their naturall endowments to accom-

plish

plish the end of their miscreancie. Briefly to cooperate with them in all endeavours to increase the delusions and dominion of the Devil, and the sedition, hatred and enmity of this world. So that at last they must as brothers in Iniquity, with *Antichrist*, become possessed of hell, where there is endless sorrow and gnashing of teeth, a place provided for them before the world began, from which God deliver us: But are not these also true characters of our Lawyers?

Popes, that have thought themselves as omnipotent as Common Lawyers, never offered to divorce men from their Wives, but where they Judged the marriage unlawful for some Reason, or pretence of Reason in their Laws. But our Lawyers and their Goalors &c by fetching men from the Remotest parts of *England* to *Westminster*, and Committing and detaining of them for debts, or most commonly for supposed debts or trespasses without any colour of Law, while their adversaries (most frequently Lawyers Attorneys) &c. Intimate, sollicite, and at last, by
D their

their diligence, lies, false messages from their husbands, and other diabolical practises, overcome their feminine frailties, and make them their Whores, get their consents to possess themselves of all their husbands estates, reall and personall, consume part of the personall to feast their Whores at the lower end of their tables, where their own Wives sit at the upper, and their families between. While they contrive Conveyances with fines and proclamations to assure their prisoners Reall estates to themselves and their heirs, to which their bewitched Whores give way, and their Imprisoned husbands never hear of the matter till too late to be remedied by our Lawyers Law. Is not this more and worse than a popish device: Others they fetch from dearer parts Prisoners to their Marshallseas, suffer their Wives to boord and bed with them untill they have sould beds and all, and then failing to satisfie extortions, their husbands are dungened and their Wives cast & kept out in the street, except yielding to the lust

of a turn-key, such as he liketh, be let in to serve his turn and after turned again to the rest in the street, where often they and their children starve, not daring when they find any scraps to aneer their husbands and parents, to relieve them with any till all be starved. In streets and dungeons Husbands Wives and Children. Creditors look after your debts, what might have payed you part, if not all in time, had you taken a lawfull Course, Goalers and their partners have parted in fees, usurer dye with grief, not for the loss of thy debtors but the debt and boast of thy Revenge, thou hast dice of his bones. Is not this more and worse than the Popes divorce, yet more and worse then this, Judges and Goalers do in diverting and restraining the Saints of God from his service, and hearing of his word preached, by which faith commeth and is maintained, so farr as in them lieth, except when in malice to some Orthodox minister, not love to the prisoners they cast him amongst them, not to the end to better them, but to worse himself.

The premisses considered, Let all men assure themselves, God hath a greater quarrel with this Nation than can be appeased till the land be cleared of such *Achans*. Parliament spue them out, Army drag them out, to quarter them is freer for thee than any free quarter in the Countrey. Because their wealth, filched from the Common-Wealth, ought to be restored to it, and to thee first that best deservest thy share therein. Read the Histories of *England*, and find Lawyers the causes of all our Civil Wars in all ages, observe what success we have at this present by imploying men of that profession to mediate with forrainers for Peace, and so souldiers look to your own, and fare well upon your own, which the Law maketh and will maintain to be your own as shall be made good to his death, by your faithfull and loving friend

John Jones.

The

maintain it, is in a Magistrate, to do wrong and maintain it, is a Principle of common reason, which is one of the chief grounds of all humane Laws.

4. That all Supream Magistrates, are or ought to be bound by Oath to maintain right and truth against force and fraud, to all their Inferiors; and both to restore and defend the oppressed, and punish the Oppressor, appeareth by the Oaths of Kings, and late Covenants and Votes of this Parliament; the performance and practise whereof, is all that ought to be wished by any wronged person.

5. That by virtue of such Oaths, Votes, and Covenants, & the Authority upon that Trust settled in the Supream Magistrate, he becometh interested in all mens Rights; so that when they are wronged, the Party grieved ought to sue for redress, as well for the State, as for himself, as appeareth by the Writ of Deceit and discourse thereupon in Fits. Herbert; *Natura Breuium*, and the Register, and Rastall and Cooks Books of Entires at large.

6. The

6. The Sepream Magistrate being so invested in the right of the oppressed, cannot be disinvested, disseised, expelled, or outed of that Right by any inferiour, having the posse or Power, not onely of the County, but also of the Law and Common-Wealth, to right and restore the Party expelled to that Right remaining in the Eye of the Law fixt in the Magistrate; so that it can be said to be but intruded upon, and wrongfully detained from him, and not disseised or expelled, and the Party grieved and expelled of his right of possession, hath a right of Inheritance by descent, as appeareth by Inquisitions upon *post mortem*, where the Party grieved is found Heir to his Father or Cousin; and said, that the Inheritance of right, is descended and come *Prout Lex postulat* to him, and the Writ of Right determineth as well the right of Inheritance, as the right of possession, as appeareth by the judgements thereupon related by both *Rastall* and *Cooks* Books of Entries at large.

7. That the late Statutes for Champertie, Fines, and Limitations, reach

reach not to the Supream Magistrate, that is sworn to restore and maintrainright, without any respect of time, person, or condition, appeareth rational and necessary in construction of Law, to save his Oath.

8. That they are void Laws, appeareth by three Reasons, ratified by sound and approved Lawyers: First, for that they are contrary to the Law of God, which admitteth of no time or means to bar or keep a man from his Right, but his own Decree upon the merit of the Party interressed; as the Captivity of the Israelites in Babylon & Ægypt for seasons; or the consent of the Party to devest himself of his Right by slighting it; as *Esau* sold his Birthright for a mess of Pottage: Secondly, for that they are against the great Charter which alloweth of no Disseision or Possession gained thereby: Thirdy, for that, where Deceipts are the Grounds of Fines, those Deceipts found and proved, shake off all Buildings raised thereupon, as appeareth by the proceeding usuall upon that Writ in the Books of Entries and Terms of the Law.

9. That

9. That Parties grieved have used to intitule the Supream Power for the time being to their Rights of Inheritance, by Gifts, Grants, and Forfeitures, upon Conditions not performed, whereby to over-power those that over-powred them appeareth by severall Presidents extant.

10. That the Exchequer, is the proper Court for the intituling of the Supream Power to such rights, appeareth by the Great Charter, which established it severall Ages before the Chancery came to being: and the practice there was never discontinued, as appeareth by Commissions granted to inquire, and Inquisitions returned there, and Proceedings had thereupon in all Ages.

11. That the Supream Power being intituled, ought not to be suspended or Wayved without his consent, is to be considered.

12. That an Attachement before summons, is an unlawfull Process, especially against such, as offer to appear *gratis*, appeareth more-hasty, than wise in the Procurers.

The

The premises considered, and the weight thereof being matter of Law, and the profit tending to the enabling of the Parliament to pay their debts, and discharge their Trusts to the Common-Wealth, and the opposition made in this case, being but by such as have gained the Estate, and Right of the Common-Wealth to their own particular possession by fraud or force, and further gained Acts of Parliament contrary to the Law of God, and the great Charter, to settle them in other mens Rights, under pretence of a peaceable way, contrary to the Scripture; No Peace to the wicked, let all honest and right Christians deliberately ponder the matter, and ayd the Truth in what they may, so craveth the well-wisher of all such,

John Jones

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O R

The Q U E S T I O N Resolved by
M A G N A C H A R T A, &c.

Who have been *Englands* Enemies,
Kings Seducers, and *Peoples* Destroy-
ers, from *Hen. 3. to Hen. 8.* and
before and since.

Stated by

Sr. E D V V A R D C O K E, Kn^t.
late L. Chief Justice of *England*.

Expostulated, and put to the Vore
of the People, by J. J O N E S, Gent.

Whereunto is added

Eight Observable Points of Law,
Executable by Justices of Peace.

Abusum ego, non usum forensen damno.

*Ex legibus illis quæ non in tempore aliquod, sed
perpetuâ utilitatis causâ in æternum lata
sunt, nulla abrogari debet, nisi quam aut u-
sus coarguit, aut status aliquis Reipublice
inutilem fecit. Tit. Liv. lib. 4. dec. 4.*

L O N D O N,

Printed by *W. Bently*, and are to be sold by
E. Dod, and *N. Ekins*, at the Gun in
Ivy-Lane. M D C L.



7.

To the Right
H O N O U R A B L E,
H O N O U R A B L E;
Right
W O R S H I P F U L L,
And Well-beloved, the
C O M M O N S,
and P E O P L E of
England Universally.



*Ecause Magna Char.
Printed in English,
An. 1564. and bound
up with other Sta-
tutes at large (too Volumi-
nous, and costly for the generality
to read, or buy) doth yield less
profit than hath been long neces-
sary; I have presumed at the in-
stance of some, to Dedicate this
Treatise to you all, as it concern-*

The Epistle.

eth the good of all that be, or
would be good, & the hurt of none
that have left any unhurt: where-
in you shall find so many Chap. of
Mag. Char. Confir. Char. Art.
super Char. and other Statutes
at large, corroborating the same;
and the L. C. Exposition there-
upon, with some Expostulations,
and Queres of mine own, as I
thought requisite, or convenient
for these times. The rest of the
Charter, concerning the Church,
(yet unsettled) or the Kings Tenu-
res, (otherways disposed of) I
have omitted as useless; desiring
that thus much may prove useful
to all undertakers of Reformati-
on, as well Martial, as Civil.

Whose Servant (to my power)

I shall ever be, and continue
with due faithfulness,
and humility.

Jo. Jon. s.


(1)



The Great
CHARTER
of the
LIBERTIES of ENGLAND,
Granted to the People
of the same,

By King HENRY the third;

And accorded between him and
them in diverse full *Parliaments*,
as followeth, *viz.*

 **HENRY**, by the
Grace of God, King
of England, Lord of
Ireland, Duke of Nor-
mandie, and Guyen, and
Earl of Angeow. To
all Arch-Bishops,
Bishops, Abbots, Priors, Earls,
Barons, Sheriffs, Provosts, Offi-
cers; And to all Bailiffs, and our
faithfull Subjects; which shall see
this present Charter, greeting.

Know ye, that We, to the ho-
nour of Almighty God, and for
the salvation of the souls of our

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Pro

Judges judged.

Progenitours, and Successours,
Kings of England, to the advan-
cement of holy church, and amendment
of our Realm of England; of Our meer
free will, have given and granted to
all Arch-Bishops, Bishops, Abbots,
Priors, Carls, Barons, and to all
Free-men of this Realm of England
for evermore.

Cap. I.
Liber-
ties.

First, We have granted to God,
and by this present Charter have
confirmed for Us, and our Heirs for
evermore; That the church of Eng-
land shall be free, and shall have all
her whole rights, and liberties indivi-
dible: We have granted also, and
given to all Free-men of our Realm,
for Us, and Our Heirs for ever-
more, these Liberties under-writ-
ten, to have and to hold, to them, and
to their heirs, of Us, and Our heirs,
for evermore.

Lord
Coke
upon
Mag.
Chart.
Fol. i.

Here be four rehearsals (saith the
Lord Coke) of four notable causes of
the making this Law. First, for the
honour of God. Secondly, for the health
of the Kings soul. Thirdly, For the ex-
altation of the church. Fourthly, for
the amendment of the Kingdom. And
all granted to all subjects, and their
heirs, from the King and his heirs for
evermore; That the great Charter
might live, and take effect in all suc-
cessions

Judges judged.

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cessions of ages for ever.

The last of these causes which the ^{Expost} L. C. in his Preamble calleth the ^{and} ends for which this Charter was ^{Quer.} made, being for the amendment of the Realm, was (saith the L.C. upon the first chapter of *confirmatio Chart.* fol. 529.) to amend great mischiefs, and inconveniences, which oppressed the whole Realm before the making of both Charters, *viz.* This, and the Charter of the Forreft, which (saith the L.C. in his Preface) were declarative Acts of the old Common-Law of the Land, and no introductives of any new Law. If the mischiefs, and inconveniencies of the Realm were great before the said Acts were made to declare the Laws of the land, which formerly the lawyers reserved to themselves, till then undeclared? Were there not greater since those Acts were made, and the Lawes thereby declared, and since the accord of King and People, to keep the same inviolable, when, and as often as they were violated by Kings, and their Counsel, learned in the Laws? As hereafter shall appear.

Cap. 8. *We, nor Our Bailiffs shall not*
 Debt. *seise any lands, or rent, for any*
 Debtors. *debt, as long as the present goods,*
 Suer- *and chattels of the debtors do suffice*
 ties. *to pay the debt, and the debtor him-*
self be ready to satisfie: Therefore
shall neither the pledges of the debtor
be distrained, as long as the princi-
ple debtor is sufficient for payment
of the debt; and if the principal deb-
tor fail in payment of the debt, have-
ing nought wherewith to pay, or will
not, where he is able enough; Then
the pledges shall answer for the debt;
and if they will, they shall have the
lands, and rents of the debtor, until
they be satisfied of that which they
before paid for him, except that the
debtor can shew himself to be acquit-
ted against the suerties.

L. Coke *We (saith the Lord Coke) spoken in*
 upon *the politike capacitie of a King, ex-*
 M. C. *tendeth to his Successours. And by*
 fol. 19. *Bailiffs, are meant Sheriffs, who*
write Baliva mea, &c. And by the
words shall not seiz is expressed the
Kings Grace, who by the Common-Law
had Execution against his Debtors bo-
dies, lands, and goods. And by the
Statute of 33. Hen. 8. cap. 9. The
Sheriff is to inquire &c. and to extend
all Lands, Goods, Chattels. &c. and to
take and imprison the Bodies, as by the
 Stat

Stat. appeareth, and as the daily practice sheweth.

If We extend to Successors, even Expost
and
Quer.
to King Hen. 8. Why not longer? If *Magna Charta* was to live for ever, Why not hitherto? If the King of his Grace remitted by this Act the execution which the Common Law gave him before against his Debtors, Bodies, Lands, and Goods, in case of having nought wherewith to pay, through decay of their estates by unavoidable necessities; then the Kings Debtors obtained of the Kings Grace as much Liberty for their bodies, as this King gave to all his free subjects by the 29th of this Act, viz. *No Free man* &c. And for his Estate, as much as the proverb saith; *where nothing is to be had, the King looseth his due*. If the King did not remit so much by this Act, then did he gain thereby more than he gave, contrary to the opinion of all Lawyers, that say, All Acts of Parliament are to be expounded for the benefit of the Subject. And what, and how did he gain? but contrary to his Honour, much more to his Grace, when two more of his subjects were hedged in

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by

by this Act, as Pledges to pay for his undone Debtor, and to undoe themselves and their families by the bargain. And (their estates being too little to pay their own debts) their Creditours must see the King first served out of the same, to their no small prejudice, if not undoing, whereby many are injured through one mans occasion. If therefore this Act ought to be construed for the honour of the King, and benefit of the subject (as I believe it ought, and the L. C. saith, others have thought so) it followeth, That the Statute of the 33. Hen. 8. 9. was made (as many more were before and since) against *Mag. Chart.* and not onely against Kings honour, and grace, but also their Oathes, to the undoing of multitudes of their subjects, which was ungracious for their Counsel learned in the Laws, to give advice, or assent to the making such Laws, or when made, to allow them, much more to maintain them; being that all Judges are to receive *Mag. Chart.* for a Plea against all Statutes made against it. And all Judgements given against *Mag. Chart.* are, and ought to be void

void ; (as appeareth in the L. 6. preamble) And all such Statutes as were made before the 42. of Ed. 3. against *Mag. Chart.* were then repealed: and (as I conceive) all made so since, are repealed by the Petition of Right, 3. Car. that restored *Mag. Char.* to its primitive vigor, and consequently enervated all its opponents.

The City of London shall have the Cap. 9.
old Liberties, and customs which London
it hath been used to have. Moreover &c.
We will, and grant, that all other
Cities, Burroughs, Towns, and
the Barrons of the five Ports, and
all other Ports, shall have their Li-
berties, and Free-customs.

This Chapter (saith the Lord Coke) L. C.
is excellently interpreted by an ancient upon
Author (quoting the *Mirror* in the M. C.
Margent) who saith, that by this fol. 20.
Chapter, the Citizens of London ought
to have their Franchizes, whereof they
are inheritable by loyal Title, of the
gift, and confirmation of the Kings,
which they have not forfeited by any a-
buse; and that they shall have their
Franchizes, and Customes, which are
sufferable by right, and not repugnant

to law : And the same interpretation serveth for the Cinque-ports, and other places.

Expost
and
Quer.

Doth not this Charter, and chapter sufficiently declare, and Lawyers, (though unwillingly, yet plainly) confess, that *London* and the rest, had old Liberties and customes, and that they are inheritable thereof, and ought still to have the same, so long and so far, as not repugnant to Law, (which I conceive to be this Law, and not any that have been made since against it?) And do not the several Charters of *London*, and other Cities and Towns, obtained since this Law, declare further what those Liberties, and Customs were? And if the Kings learned Councel have consented that he should grant, or Professors of the Law advised Londoners, or any other Citizens, to ask things repugnant to this Law, and prevailed with both parties? Have they not misled both parties? And though they have so done often; yet in this case, doth not the Statute of the 19th of *Henry 7.* chap. 7. help the offenders with less danger than the forfeiture of their Customs, and Liberties,

Judges judged.

9

Liberties, if they offend especially but in those points, which their lawyers so much misadvised them to ask, and the Kings, him to grant?

Common-Pleas shall not follow
Our Court, but shall be holden in
some place certain.

Ca. 11.
Com-
mon-
Pleas.

Before this Statute (saith the Lord
Coke) Common-Pleas might have been
holden in the Kings-Bench, and all
writs returnable into the same Bench;
And because the Court was holden co-
ram Rege, and followed the Kings
Court, and removable at the Kings
will, the Returns were Ubicunq; fue-
rimus in Angliâ; whereupon many
discontinuances ensued, and great trou-
ble of Furors, charges of Parties, and
delay of Justice; for this cause this
Statute was made, &c. And Pleas of
the Crown were divided into high
Treason, Misprision of Treason,
Petty Treason, Felony, &c. and
limited to this Court, because contra
coronam, & dignitatem, &c. So that of
these (the Lord Coke saith) the Com-
mon-Pleas cannot hold Plea. But to
shew that Common-Pleas may be hol-
den in the Kings-Bench, he saith. That

L.C.

upon

M.C.

fol. 22,
23.

Judges judged.

the King is out of this Statute, and may sue in that Court. Secondly, if a man be in Custodia, any other may lay upon him any Action of debt, covenant, or the like personal Action, because that he that is in Custodia, ought to have the priviledge of that Court. And this Act taketh not away the Priviledge of any Court. Thirdly, any Action that is Quare vi & Armis, where the King is to have a Fine, may be sued in this Court. Fourthly, Replewins may be removed thither. Fifthly, (saith the Lord Coke) Albeit originally the Kings-Bench be restrained by this Act, to hold Plea of any Real action yet by a mean, they may; as when removed by Writ of Error from Common-Pleas, thither for necessitie, lest any party that hath right should be without remedie, or that there should be a failer of Justice; and therefore Statutes are alwaies to be expounded so, that there should be no failer of Justice.

Expost
and
Quer.

Do not the L. C. words, viz. (Before this Statute, &c.) imply, that after the Statute, Common-Pleas ought not to be holden in the Kings-Bench, nor all Writs be returnable into the same Bench? Doth the Register

gister, or *Natura brevium* therefore shew any Writ for debt returnable to the *Kings-Bench*? Doth not *Fitz. H. natura brevium* fol. 119. h. & k. declare that there is no Writ in Law for debt, but a *Justicies*, which is a judicial Commission to the Sheriff to determine the matter, *Nè amplius inde clamorem audiamus*: So that the *Kings-Bench* ought not to be troubled with the matter at all? or if an Original returnable to the *Common-Pleas*? Doth not that Original declare it self to be a Summons? And doth not Mr *Kitchen* in his *Ret. brev.* fol. 4. *Tit. com. bank*, declare, that Summons, Attachment, and Distringas, successively distant fifteen days one after another, is the onely Proces at Common Law? The *Kings-Bench*, and *Common-Pleas* ought to practise by the Common Law, declared by *Mag. Chart.* and accord of the King and People; declared and enjoyned to be observed inviolable, and immutable for ever. Did ever any Judge of the *Kings-Bench*, or *Common-Pleas*, advise, or consent to the making any Statute, or Law to the contrarie, (being sworn to execute and maintain *Mag. Chart.*

as anon shall appear all were, or ought to be) and was not perjured? Did, or doth any Judge of any Court of *Record*, observe any such Law being so made; or practice, or suffer to be practised (where he hath authoritie) any suits or proceedings contrary to *Mag. Chart.* and was, and is he not perjured? Doth not the practice of the *Kings-Bench* still shew, that thence doth issue no other Writ for debt, than a Bill of *Middlesex*, or *Latitat*, which express themselves to be for *Trespas*? Are not those Writs still returnable *ubicunque fuerimus*, and the *Kings-Bench* therefore still removeable at the Kings will? whereupon (as saith the *L. Coke*) many discontinuances ensue, and great trouble of Jurours, charges of Parties, and delay of Justice: for which causes (he saith) this Statute was made. How doth this Statute (if therefore made) prevent such discontinuances, trouble, charges, and delay of Justice, but by declaring, that *Common-Pleas* shall not follow the *Kings-Bench*? How contradictorie to himself is the *L. Coke* then, when he laboureth to make *Common-Pleas* lawfull to be holden in the *Kings-Bench*?

Bench? And if (as he saith) the *Pleas* of the Crown were divided into high Treason, Misprision of Treason, Petty Treason, Fellonie, &c. & limited to the *Kings-Bench*, because *cont. Coron. & dign. Regis*; so that of these (saith he) the *Common-Pleas* cannot hold *Pla.* By what Justice can he desire to hold *Common-Pleas* in the *Kings-Bench*; unless because more gainfull, (as when he was supplanted by his successour, under colour of preferment, from the *Common-Pleas* to the *Kings-Bench*, he passionately expressed the difference, saying, That he was called from the warm kitchen, to the cold hall:) and that therefore he desired to reduce Justice to his desire, rather than his desire to Justice? But let us examine his Arguments for that purpose. First, (saith he) The King is out of this Statute. How? out of this Statute, which above all other, the King was sworn to observe, and obey, and to violate was perjurie, and punishable in all men without regard of persons, and no less in the Lo. C. to say and write otherwise? But (saith he) the King might sue in his *Bench*. And so might he in any Court of *Record* which he pleased;

as anon shall appear all were, or ought to be) and was not perjured? Did, or doth any Judge of any Court of *Record*, observe any such Law being so made; or practice, or suffer to be practised (where he hath authoritie) any suits or proceedings contrary to *Mag. Chart.* and was, and is he not perjured? Doth not the practice of the *Kings-Bench* still shew, that thence doth issue no other Writ for debt, than a Bill of *Middlesex*, or *Latitat*, which express themselves to be for *Trespas*? Are not those Writs still returnable *ubicunque fuerimus*, and the *Kings-Bench* therefore still removeable at the Kings will? whereupon (as saith the *L. Coke*) many discontinuances ensue, and great trouble of Jurours, charges of Parties, and delay of Justice: for which causes (he saith) this Statute was made. How doth this Statute (if therefore made) prevent such discontinuances, trouble, charges, and delay of Justice, but by declaring, that *Common-Pleas* shall not follow the *Kings-Bench*? How contradictorie to himself is the *L. Coke* then, when he laboureth to make *Common-Pleas* lawfull to be holden in the *Kings-Bench*?

Bench? And if (as he saith) the *Pleas* of the Crown were divided into high Treason, Misprision of Treason, Petty Treason, Feltonie, &c. & limited to the *Kings-Bench*, because *cont. Coron. & dign. Regis*; so that of these (saith he) the *Common-Pleas* cannot hold *Plea*. By what Justice can he desire to hold *Common-Pleas* in the *Kings-Bench*; unless because more gainfull, (as when he was supplanted by his successour, under colour of preferment, from the *Common-Pleas* to the *Kings-Bench*, he passionately expressed the difference, saying, That he was called from the warm kitchen, to the cold hall:) and that therefore he desired to reduce Justice to his desire, rather than his desire to Justice? But let us examine his Arguments for that purpose. First, (saith he) The King is out of this Statute. How? out of this Statute, which above all other, the King was sworn to observe, and obey, and to violate was perjurie, and punishable in all men without regard of persons, and no less in the Lo. C. to say and write otherwise? But (saith he) the King might sue in his *Bench*. And so might he in any Court of *Record* which he pleased;

pleased; for all such Courts are called his, and have power under him, to administer Justice to all men, according to their Commissions and Charters, as well as the *Kings Bench*; and therefore he had his Attorneys, and Sollicitours, attending many such Courts. Secondly, (saith he) if a man be *in custodia*, any other may lay upon him any action of debt &c. because (saith he) that he that is *in custodia*, ought to have the priviledge of that Court. Now if a man be *in custodia* for Fellonie, &c. and an Action for Debt, &c. be laid upon him, shall his priviledge in being *in custodia* keep him from hanging (if he deserve it) till he pay the debt? or if he be hanged, and have any goods, shall the Creditour be paid his debt out of the same; or if he have any lands, out of the *Escheat*? I believe not. If a man be not *in custodia*, but a Justice of Peace, or a Grand-Juror, attending Sessions in *Cumberland* or *Cornwall*, what priviledge of this Court doth he need? If he be arrested there, upon a Writ of trespass, when he is guiltie of none, is he not more disgraced than priviledged by this Court?

Court? when he is forced to appear in this Court for trespass, and nothing declared against him for any such matter, ought he not to be dismissed for that matter, with costs, and damages, answerable to his disgrace and expences, though arrested at the Kings suit? Shall the King do any man wrong? how then doth the Maxim hold, that he cannot? Shall this Court abuse his name, to wrong his Subject? Is not Injustice, Perjury in a Judge sworn to do Justice? Is not all against *Mag. Chart.* and truth, which is, God himself? If not so dismissed, shall a declaration be admitted against him upon an Original for debt, where neither such Writ, nor cause belong? And shall the Defendant be enforced to wait upon his Bail for trespass, to answer that Declaration? is not that more Injustice? And moreover, if that Writ, or the Return thereof be forged, (as all, or most Originals directed to the Sheriffs of *London* or *Middlesex*, are; as well by Clerks of this Court, and so filed upon Record here as by Attorneys in the *Common-Pleas*, there;) shall that Declaration be admitted to say, that the Defendant

Defendant is *in custodia*, (which is false;) and be made a Record, which would be accounted the next truth to Gospel? And shall not the Defendant be admitted to plead *Mag. Ch.* against the jurisdiction of the Court, and such lying Records? If not; is not all this more Injustice and Perjury? Shall Judges give Judgements upon false Records (except to burn them, and punish the makers, and causers) and shall not they be counted, and called false Judges, and Perjurers; and their judgements false judgements and perjuries? Shall they, that commit Debtors into their Marshals custodie, upon such judgements by their priviledge (as they call it,) say that this Statute doth not take away such priviledges, when the Lo. C. himself saith, that all Statutes ought to be expounded so, that there should be no failer of justice; and this Statute, being *M. Ch.* (chief of all Statutes) and all its Confirmations say, that equal justice ought to be done to all men, without regard of persons? What Statute or custom did, or can give any priviledge to any Court to the contrarie? What benefit of priviledge hath

hath the Debtor, that is so committed by this Court, and its priviledge, but his undoing, and his families, and often his untimely death by famine, and miserie? Is not that so occasioned by the rigour, and illegalitie of this Court, an offence of the highest nature, of Murther and Perjurie? Who gaineth any thing by this priviledge, but the Court, and their Marshal in extorted Fees, to the dammage of both Creditor and Debtor, and often the ruin of both or either? Why therefore doth the L. C. call it a priviledge to the party in Custodie, when it appeared to be no benefitt, but prejudice unto him, and that more aggravated, to have more Actions laid upon him for more debts occasioned (perhaps) by his imprisonment? What law, or reason requireth any priviledge to any man for debt, since this Statute in the 29 chapter, freeth all mens bodies from imprisonment, untill they be lawfully tried by their Peers? and no law, but an abortive Statute made 25. *Ed. 3. cap. 17.* and repealed in the 42 of the same King (as aforesaid) gave an Arrest against Debtors but Merchants and Accomptants?
and

and a Statute made in the said 25 year of the said King, gave the Creditors two parts of all their Debtors lands, & all their goods (except the beasts of their plough) for satisfaction of their debts, which Statute is still in force, and daily executed accordingly? As for Accomptants, Debtors, and Tennants to the King, that are so indeed, if the Court of *Exchequer* be thought proper for them; why should others that are not such indeed, be sheltered to defend or countenanced to offend under that pretence? And as for Members of any Court, why ought not they to sue, and be sued by their Attorneys in other Courts than their own, since it is unnatural for any bodie to suffer any of its Members (though never so corrupt) to be put to any smart, which it may avoid? And may not, nay ought not every just Court avoid such suits, and the suspicion of their injustice by entertaining them, and proceeding therein, by leaving them to the justice of other Courts of competent judicature, as all other Courts do leave their Members to the mercy of the Courts at *Westminster*?

or

or may not, nay ought not all Courts of judicature within their jurisdictions, determine the causes of all such Members of the Courts at *Westminster*, as shall be found, and arrested within their jurisdictions, notwithstanding any Writs of privilege, or other Writs to remove them, before they be determined; rather than the Courts at *Westminster* may send for the Members of every Court, to be justified by them? For who can say, he hath ever found any justice there against any privileged man? And how many that be no Members of any Court there indeed, are so countenanced, as subordinate to some ill Member, or other there, and have their Law for nothing, to bring Fees and gain to one or other of those Courts, out of honest mens purses and Estates, against whom they can shew no colour of right any where, but where they know they shall be favored, and their Adversaries oppressed? And how many men of good Estates have been, and daily are, not onely oppressed, but undone by that means? Thirdly, for Trespass, *vi & Armis*; Is it but a common-Plea, and consequently proper to all Courts

Courts of Record, and rather to be tryed within that jurisdiction where the offence is committed, than elsewhere? And hath not the King his Fines imposed and levyed by the authority of all such Courts, as well as by the *Kings-Bench*? Fourthly, for *Replevins*, may they not as well be removed to, and determined by the *Common-Pleas*, as in the *Kings-Bench*? Fifthly, what meaneth the Lord by his words, *viz.* [*Originally restrained*] but that the *Kings-Bench* is restrained from having any original Writs Returnable thither in *Real Pleas*? And is it not as much restrained from originals in *Personal Pleas*, that are as *Common-Pleas*, as *Real*, by this Statute? Or by what other Statute, Law, or President, is it inabled to have any originals returnable to it for debt, when the Register and *Ret. brevium* have no such Presidents, as aforesaid? Is not therefore all the practice of the *Kings-Bench* for debt, unjust, and perjurious, as aforesaid? and moreover a faint Action, &c. as the prisoners for debt in that Court have lately set forth by their Petition to the Lord General, and his Officers concerning this matter.

Judges judged.

A Free-man shall not be ameirced for a small fault, but after the quantitie of the fault, and for a greater fault, after the manner thereof, saving to him his contenment, or Freehold: And a Merchant shall be likewise ameirced, saving to him his Merchandize: And any other Villain than Durs, shall be likewise ameirced, saving his Wainage, if he fall into Dur mercy: And none of the said Ameirciements shall be assessed but by the oaths of honest men of the Visitation: Earls, and Barons shall not be ameirced, but by their Peers, and after the quantitie of their trespass. No man of the Church shall be ameirced after the rate of his spiritual benefice, but after the rate of his lay tenement, and the quantitie of his trespass.

Capit
14.
Ameir-
cia-
ments.

A Free-man here, hath a special understanding (saith the L. C.) and is taken for a Free-holder; and this appeareth by this clause, Salvo contemento suo. viz. Saving his Free-hold, &c. This Act extendeth to Ameirciements, not to Fines imposed by any Court of Justice, &c. Free-men are not intended to officers, or ministers, or officers of justice, &c. The writ of Moderata misericordia, giveth remedie to the Partie that is excessively ameirced, &c. Albeit the Law of England

Lord
Cook
upon
Magna
Charta
fol. 27.

is

is a Law of mercy, yet it is now turned to a shadow; for where by the wisdom of the Law, these *Amerciaments* were instituted, to deter both *Demandants* from unjust suits, and *Defendants* from unjust defences, which was the cause in former times of fewer suits, &c.

Expost
and
Quer.

If *amerciaments* were instituted to deter *Plantiffs* from unjust suits, and *Defendants* from unjust defences; and were the causes of fewer suits in former times; how comes the Law turned to a shadow in the Lord *Cokes* time? when in the *Kings-Bench*, and *Common-Pleas*, *amerciaments* were as frequent, and greivous as in any other time, and suits no fewer, nay more numerous than before, (as Records of both Courts declare) unless he means that all the Writs in the Register, and *Natura brevium*, both original, and judicial, (whereby suits were determined amongst neighbours friendly at home) became useless, since *Habeas corpus*, &c. carried all to *Westminster*? And that there injustice shadowed under the name and habit of justice, remunerated the litigious supporters of her being, with such shares

shares of her spoils, that though she trebled their amerciements, she made them alwaies gainers; unless when to satisfie their revenge, rather than their purses, they commuted their monies for counsels, and countenances, to undo the opposers of their malice, whereby both parties became loosers, and often ruined; and injustice onely remained the gainer, and increased her kingdom (as the Divil doth his) by such suitors; and made more suits for *Westminster*, than all the Courts of Errors, and their Judges, Lawyers, and Attorneys there, shall wear out while they live, without extraordinary helps of their servants.

No town, or Free-man shall be Distraigned to make Bridges, or banks, but such as of old time, and of right have been accustomed to make them in the time of King Henry our Grandfather. C. 15.
Bridg:
Banks.

No Banks shall be defended henceforth, but such as were in defence in the time of King Henry our Grandfather, by the same places, and the same bounds, as were wont to be in his time. C. 16.
Banks.

Both the next precedent chapters sufficiently expound themselves, so that

is a Law of mercy, yet it is now turned to a shadow; for where by the wisdom of the Law, these Amerciaments were instituted, to deter both Demandants from unjust suits, and Defendants from unjust defences, which was the cause in former times of fewer suits, &c.

Expost
and
Quer.

If amerciaments were instituted to deter Plaintiffs from unjust suits, and Defendants from unjust defences; and were the causes of fewer suits in former times; how comes the Law turned to a shadow in the Lord Cokes time? when in the Kings-Bench, and Common-Pleas, amerciaments were as frequent, and greivous as in any other time, and suits no fewer, nay more numerous than before, (as Records of both Courts declare) unless he means that all the Writs in the Register, and *Natura brevium*, both original, and judicial, (whereby suits were determined amongst neighbours friendly at home) became useless, since *Habeas corpus*, &c. carried all to Westminster? And that there injustice shadowed under the name and habit of justice, remunerated the litigious supporters of her being, with such shares

shares of her spoils, that though she trebled their amerciements, she made them alwaies gainers; unless when to satisfie their revenge, rather than their purses, they commuted their monies for counsels, and countenances, to undo the opposers of their malice, whereby both parties became losers, and often ruined; and injustice onely remained the gainer, and increased her kingdom (as the Diuel doth his) by such suitors; and made more suits for *Westminster*, than all the Courts of Errors, and their Judges, Lawyers, and Attorneys there, shall wear out while they live, without extraordinary helps of their servants.

No town, or Free-man shall be Distraigned to make Bridges, or banks, but such as of old time, and of right have been accustomed to make them in the time of King Henry our Grandfather. C. 15. Bridge: Banks.

No Banks shall be defended henceforth, but such as were in defence in the time of King Henry our Grandfather, by the same places, and the same bounds, as were wont to be in his time. C. 16. Banks.

Both the next precedent chapters sufficiently expound themselves, so that

that the Lord Coke speaketh no more to this matter, but that the *Mirroure* saith, That divers Rivers and their Banks were in his time appropriated, and blocked up by divers persons, to debar common-fishings, which were wont to be used there in the time of King H. 2. And I believe, there are many more so done, more lately, which Commissioners for Sewers shall do well to look to.

C. 17. No Sheriff, Constable, Escheator, Coroner, or any other our Bailiffs, shall hold Pleas of the Crown.

L. Coke upon M. C. 30. One mischief before this Statute, was (saith the Lord Coke) That no Court, but the Kings chief Court, could command Bishops to give their clergy to such as ought to have it: another cause was, That the life of a man ought to be tryed before Judges of learning, and experience of the Laws of the Realm; for Ignorantia Iudicis, est sæpenumerò calamitas innocentis. These are the reasons that the Lord Coke alledgeth, why some Pleas of the Crown were taken from Sheriffs, Castellans, Escheators, Coronors, and Bailiffs, under which names (saith he) are com-

comprehended all inferiour Judges, Justices, and Courts of Justice: albe- it (saith he) it be provided by the 9th chap. of Mag. Charta, That the Barons of the five Ports should have all their Liberties and Customs. These general words (saith he again) must be under- stood of such Liberties and Customs, as are not afterwards in the same Char- ter by expresse words taken away, and assumed to the Crown.

Might not the Kings inferior Expost Courts command ordinary Ministers and to give men their Clergie? And ^{Quer.} might not that serve before *Magna Charta*, as it is usual since? For sel- dom, or never in our memories, did Bishops themselves attend any Court for that service: and now, should they be necessary onely for that im- ployment? So the Kings Court would be onely to command them: but if Bishops may be spared, why may not that Court for that cause? And if by this Charter the King re- sumed some Pleas of the Crown from those that formerly had them; doth it follow, that he resumed all Pleas from those that formerly had them? and if under the name of Bailiffs be
C compre-

Judges judged.

26

comprehended all Judges, and Justices, are not the Judges of the *Common-Pleas* and Barons of the *Exchequer* so comprehended? And are none of them of such learning and experience in the Laws of the Realm, to try the life of a man, as Judges of the *Kings-Bench*? Or else, why are they sent for Goal-deliveries, as well as Judges of the *Kings-Bench* are? Was it not provided by the 9. chapter of *Mag. Charta*, That *London*, and other Cities, Burroughs and Towns, as well as the Barons of the five Ports, and other Ports should have their Liberties and Free-Customs? Are all these now resumed by this 17. chap? Who can understand so? Or what meaneth the *L.C.* by his riddles? Shall *Magna Charta* contradict it self, though the *Lore C.* would, and doth here and elsewhere? Are not Commissions of *Oyer* and *Terminer*, usual for Tryal of mens lives, where Judges of the *Kings-Bench* cannot reach, or dare not go? Doth not *London* and other Corporations execute their Charters by their Recorders, when the *Kings Bench* gives them leave; and the do not the Judges of the *Kings*

Bench

Bench grant that such Judges may be as learned, and experienced in the Laws as themselves, for the Trying of mens lives? Are not mens lives Tryable for matter of Fact, and not of Law, (except Treasons that reach to thoughts?) Are not Jurors the Judges of matters of Fact? What great learning, or experience in Law is requisite for a Judge to pronounce the sentence of death, where the verdict hath determined the life? But how many true men have been hanged, and thieves saved by Judges interposing, and obtruding their pestiferous pretended learning and experience in the Laws between the weak consciences of ignorant Jurors, and the truth? which kind of Jurors they make Sheriffs return for such purposes, when they may have such returned as know the Facts, and have sounder learning and experience in exprefs Law than themselves.

**All wears from henceforth be utterly put down by Thames, and Med-
way, and throughout all England, but &c.
only by the Sea-coasts.**

L.C.
upon
M.C.
fol. 38.

It was specially given in charge by the Justices in Eyre (saith the Lord C.) that all Juries should inquire of all such as Fished with wears and Dams: and it appeareth (saith he) by Glandvil lib. 9. c. 11. That when any thing is unjustly occupied within the Kings demesne, or obstructed in publick waies; or Rivers, turned off their right channels, or Citie-Streets built upon; and in general, as often as any nuisance to the Kings holding, or his High-way, or to any Citie, is committed; That is a purpresture, viz. an Inclosure, whereby one inchroacheth, or maketh that severall to himself, which ought to be common to all, or many; and every publick River, or Stream, is the Kings High way.

Expost
and
Quer.

If Wears be nuisances (as I assure they are) throughout England and Wales; and if Commissioners for Sewers, and Justices of Peace for want of them, be sufficiently authorized to reform such wrongs, and do not, because chief doers thereof, or sharers in the unlawful gain made thereof themselves: why not Justices in Eyre employed to execute their charge, for the general amends

me

ment thereof, for the publick good?

One Measure of Wine shall be ^{C. 25.} throughout our Realm, and one mea- ^{Mea-} sure of Coin, viz. according to the ^{Mea-} ^{ures,} Quarter of London and Habergeeds, &c. that is to say, two yards within the list, and as it is of ^{weights,} so shall it be of Measures.

This Act concerning Measures, and L. Coke weights, that there should be one Mea- ^{upon} sure, and one weight through England, ^{M. C.} is grounded upon the Law of God, ^{fol. 49.} Deut. 25. v. 13, 14. And this by Authority of Parliaments hath been often enacted, but never effected.

If Weights and Measures through- ^{Expost} out England ought to be one, and ^{and} that not onely by the Law of God ^{Quer.} (as the Lord C. instanceth) but also by this Charter of Agreement between the King and the People; Why did not the Lord C. (being chief Justice of England) sworn to do Law, and Justice too, and between King and People, (as partly before did, and hereafter further shall appear he was, or ought to have been) see this point of Justice, (so highly

C 3 requi-

required by the Law of God , and so mutually agreed upon by the Kings of this Land, and their Subjects) duly executed ?

Ca. 16. *Inqui-* Nothing shall henceforth be given
sition. for a Writ of Inquisition, nor taken of him that prayeth the Inquisition of Life, or Member, but it shall be granted freely.

L. C. *A Writ of Inquisition, viz. De odio*
upon *& atia, anciently called De bono &*
M. C. *malo, &c. which the Common-Law*
fol. 42. *gave a man that was imprisoned,*
though it were for the most odious
cause, for the death of a man, for
which (without the Kings writ) he
could not be bailed ; Yet the Law fa-
vouring the Libertie and Freedom of a
man from Imprisonment, &c. until the
Justices in Eyre should come, at what
time he was to be tryed; he might sue
out this Writ directed to the Sheriff,
&c.

Expost
and
Quer.

If a Writ *De odio & atia* was given by the Common-Law, to a man Imprisoned for] the most odious cause, even for the death of a man; and if the Common-Law favoured the

the Liberty of a man Imprisoned, so that he should be Bailed for such a Fact, until Justices in Eyre should Try him; Why not such a Writ still? Since *odium* (which the Lord C. defineth to be *hatred*) and *atia* (*malice*) and Prisoners for those causes are no scarcer now, than in former times? And why not Justices in Eyre (made since competent Judges by Commission without Writs) to determine such matters, which before they could but inquire of by Writs (as the Lord C. saith elsewhere, though he saith here to try them,) imployed for that service? And now if it be Lawfull for a Judge of the *Kings-Bench* to determine a debt, and to grant an *Habeas Corpus* for money, to bring the Prisoner before him to put in Bail; Why should he take money for the Writ, and refuse sufficient Bail tendred after Oath made of their sufficiency, without the Plaintiffs consent? Nay after acceptation of the Bail, Why refuse to File it?

No Free-man shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or Free Customs, or be Outlawed, or Exiled, or any

Ca2.9.
No Free
man
&c.

any way otherwise destroyed; nor we shall not pass upon him, but by lawfull judgement of his Peers, or by the Law of the Land; we shall sell to no man, we shall denie, or deferre to no man, either Justice, or Right.

Lord
Coke
upon
Mag.
Chart.
Fol. 46
&c.

Free-man extends to Villains both Sexes, &c. Upon this Chapter, as out of a root, many fruitfull branches of the Law of England have sprung. It containeth nine several Branches: First, That no man be taken or imprisoned, but by the Law of the Land; viz. The Common-Law, Statute-Law, or Customs of England, &c. Secondly, No man shall be disseised, viz. put out of his Freehold, that is, Land, Livelihood, or Liberties, or free Customs, such as belong to him by his free Birth-right; unless it be by the lawfull judgement, and verdict of his equals, or by the Law of the Land, that is (to speak it once for all) by the Due course, and proces of the Law. Thirdly, no man shall be Outlawed, or put off the Law, viz. Deprived of the benefit of it, unless he be Outlawed by the Law of the Land. Fourthly, No man shall be exiled, &c. unless according to the Law of the Land.

Land. Fifthly, No man shall be destroyed &c. unless by verdict, or according to the Law of the Land. Sixthly, No man shall be condemned, &c. but by the judgement of his equals, or according to the Law of the Land. Seventhly, We shall sell to no man, Justice, or right. Eighthly, We shall denie no man Justice or right. And Ninthly, We shall deferre no man Justice or Right, &c.

First, If no man ought to be taken, or imprisoned but by the Law of the Land, *viz.* the Common-Law, Statute-Law, and Customs of England? is it not cleared by our Expostulations before upon the 11. Chapter, that Debtors are taken, and imprisoned in the *Kings-Bench*, contrarie to the Common-Law of England, declared by *Mag. Chart.* contrarie to the chief Statute of England, which is *Mag. Char.* and which the Lord Coke saith, should live (as was accorded by King and people) for ever? And contrarie to the Custom of England declared by *Mag. Charta*, and also by the Lord Coke, not to extend to the imprisonment of any

Expost
and
Quer.

Debtours, but onely the Kings. And are not Debtors, other than the Kings, so imprisoned, as well elsewhere, as in the *Kings-Bench*? Secondly, if no man shall be disseised, *viz.* put out of his Freehold; that is to say, His Livelihood, Liberties, or Free-Customs, such as belong to him by his Birth-right; unless it be by the lawfull judgement, and verdict of his equals, or by the Law of the Land, that is to say, (once for all) by Due course, and Proces of Law. Are not Debtors disseised of their Livelihood, Libertie, and Freedom which belonged unto them as their Freehold by Birth right, when they are imprisoned in *London, Westminster*, or elsewhere, by Arrests, and Actions for Debt, whether due, or not, upon meer suggestions of Adversaries, not so much to Judges, as to Catch-pols, without any judgement, or verdict of their equals, and without Due course, or Proces of Law, which should be Summons, Attachment, and Distringas, before any Arrest, as aforesaid? Are they not taken in the Countrey from their Ploughs, which are their Livelihood, and their Countreys, and their Freehold

hold by Birth-right ; by vagant Bum-baylies, and imprisoned there, till they give bail to appear at *Westminster*; and thence, instead of being remanded home to their sweet Farm-houses, large fields, and industrious Agricultures ; are they not sent to stinking Goals, close dungeons, and idle Monk-cels, whereby they are allowed little more ground to walk upon while they live, than might serve them to lie under, when they are dead ? Are not all the Corporations of *England*, and their free-chosen Officers, (that should do them justice at home) disseised of their Freeholds by Birth-right, and Charters, before and since *Mag. Char.* when they are prevented of the administration of justice in execution of their Offices to which they were sworn, (and heritable successively from their Ancestours by Custom long before *Mag. Char.* and since confirmed by the same, and by Charters dated before, and since) by *Certioraries*, *Habeas Corpus*, &c. before Judgement ; and pretence of Errors after, and though never any proved, or assigned, yet the causes never remanded, but detained at
west.

Westminster, where the usual correction of pretended Errors, is not by making any thing that is crooked, straight; but all that is straight, crooked; so that both Plantiffs, and Defendants give their titles for lost in a mist commonly; but he that hath the wrongfull possession, and money, holdeth it; and he that hath the right, and no money, goes to his grave without it? Are not all the People of *England* disseised of their Freehold, Liberties, Franchises, and Free customs, when they are deprived of that justice which they ought to have administred amongst them at home, by virtue of the Kings Writs (original for Enquiries, and judicial for Determinations) directed to Sheriffs of their own choise, in their own Counties, or Stewards of Hundreds, and Court-Barons, in their precincts, where the Free-holders themselves are Judges themselves, by ancient Common Laws, and Customs of *England*, before *Mag. Chart.* and by it declared, and confirmed unto them as aforesaid? Can Writs of trespass executed for debt; or Capiases, grounded upon counterfeited Originals, be construed by any
Law

Law, to be due Proces of Law? Thirdly, Are men lawfully Outlawed upon Exigents for debt, grounded upon a repealed Statute? and are not all Debtors that are Outlawed, so Outlawed? Are men lawfully Outlawed, that are Outlawed upon Exigents, grounded upon *Summonitus*, or *Non est inventus*, counterfeitley returned by Attorneys, who at the time of the return were no Sheriffs, or competent officers? and are not all, or most Debtors, and Trespassers, that are Outlawed in *London* and *Middlesex*, so Outlawed? Are men lawfully Outlawed upon any Exigents, that are Outlawed without the judgement of the Coroners of the Countie wherein they are Outlawed? Are the Coroners of any Countie now adays, present at every, or any Countie, when, and where men are Outlawed? Are not their names nevertheless returned as Judges of every Outlary unknown to them, for the most part, or all? Are not those Returns false, and forged? and are such proceedings, the due course, and Proces of Law? How many thousands of the Free-men of *England* are Outlawed yearly, by such means? and how many

ny of them undone, before they can reverse them? How many are imprisoned thereupon, and have all their estates seised for the King, by Sheriffs chosen without the consent of the People? and often such as purchase their Offices, to gain by such means? How many Outlawries yearly are so clandestinely carried, that the parties so Outlawed, can hear nothing thereof, before they be imprisoned, and their estates destroyed as aforesaid? How many are further damnified by such Outlawries, procured of purpose, to debar them of their just suits in all Courts, until they reverse them? How chargeable are reversals thereof? What lawfulness is it, or what honour, for the Courts at *Westminster*, to make unlawfull profit of such unlawfull practises? Cannot the Judges at *Westminster* be contented to have counterfeited Returns of their Originals in *London* and *Middlesex*, but they must also have the like Returns of their Exigents throughout the Kingdom? Are not such Returns false, and perjurious in the Sheriffs that make them? Is it not sufficient for Judges, to perjure themselves, but that they must

must animate others to do so too, by not punishing them, when they know that practise? Are not the Sheriffs of *London* and *Middlesex*, and all the Coroners of the Kingdom made liable by this practise to Actions of the Case, and to pay costs and dammages to the parties grieved? Are such Judges, Lawyers, &c. for the Peace, or Profit of the Common-wealth, that beget, foment, or suffer the causes of such Actions, causelessly, but for their own ends and gains? Are such Courts to be called, or counted Courts of Justice, that maintain any Actions, or Arrests upon unjust grounds, or colour of any mis-begotten Laws, contrarie to *Mag. Charta*? Are not Assaults, Batteries, Rescues, Riots, and Homicides, frequent upon such Arrests? Are not many mens lives lost, and more hazzarded, and their estates ruined thereby? And if a Catch-poll be killed for making, or attempting such unlawfull Arrest, do not the Judges use to adjudge it wilful Murder, though the wronged party doth but endeavour his justifiable defence? And have they not begotten a Statute for officers to plead the
General

General issue, by colour of which they justifie themselves, and their creatures, and condemn the guiltless? Are not the causers of Murder, as worthy to be hanged, as the doers? Are not they that maintain such Arrests, to the same ends as their Predecessors, Imps of the same generation? Why therefore their advice desired, or received in such matters? Are not the Releases of Errors, which Prisoners are forced to seal before they can be enlarged, rather proofs of their guiltiness, than acquittances of such practitioners? Are not their Errors manifest to be wilfull, and gainfull onely to themselves, and hurtfull to the Commonwealth? are such Errors, or Proceedings, to be called Due courses, or Proces of Law? Then (to speak once for all) is not the Due course, and Proces of Law obstructed, and perverted? and a wrong course practised, full of Errors, Lies, Forgeries, Perjuries, &c. (as alreadie appeareth, and better shall hereafter) and cannot Law be executed without such practises? Doth not *Mag. Char.* and all its confirmations, shew how it may? Are not they sufficient lights, and

and guides for the Due course, Proces, and Proceedings which ought to be observed, in the right execution of Law? And doth not the Lord *Coke* confess them to be such, and that they never misguided any man, that certainly knew them, and truly followed them? Fol. 526. Fourthly, *If no man shall be exiled, &c.* Are not Debtors exiled from their Native Soils in *Cumberland*, or *Cornwal*, and from all their wordly comforts, of Wives, Children, Families, Friends, and Estates, both Real, and Personal when called, and forced by *Habeas corpus* &c. to attend Duke *Humphrey* in *Pauls*, or Judge *Owen* in *Westminster* (as good dead as any Judges living) to hear or dispatch Suits by the Law of the Land in any way of Justice, while the Suitors money lasts; or to relieve them with any Alms, when their Purses are spent? And if at last sent to the *Fleet*, or *Marshalsey*, where they be pent up as aforesaid; are they not worse Exiled than into *Turkie*, where they may have more Liberty of Land and Sea, and live in less Slavery than under Goalers in *England*, and have more hopes to return home again
(like

(like Sir *Thomas Shirley*, and many others) than from these Hells, whence few find Redemption? Had *Henry of Bullingbrook* been Imprisoned for Debt here, (as such now are) when he was banished to *France* could he have hoped to be King of *England*, except he had made all his Judges, and Goalers, the best sharers of all his Usurpations, as all the cheating Prisoners in these places do theirs, as they and their Creditors can best tell, by dear, and daily experience? Fifthly, *If no man shall be destroyed, &c. unless by Verdict, &c.* Are not all Prisoners for Debt, who are first forced themselves to destroy their small Estates to buy bread to eat in Idleness, and to pay Fees to Goalers, &c. and at last to Famish in the *Fleet*, or *Marshalsey*, &c. destroyed both in Lives, and Estates, and their Families to boot, without any Verdict given, or intended for their Lives? Nay are not all the Free-men of *England*, that are, or may be subject to Debts, consequently subject to the like destruction? And worthy so long as they suffer the Laws of *England*, (contained in the glorious Fabrick of the *Great Charter*

ter of the Liberties of England, built by their Ancestors for a perpetual Monument of their care of their Posterity, and their Liberties for ever) to be thus destroyed by an Hypocritical Generation of Pharisaical Pretenders to the onely knowledge of these Laws, which by that pretence, they thus pervert, to destroy all honest men whom it should save, and to save all whom it should destroy or punish; and that for unlawful respects, and considerations tending onely to their own profits, and ends. Sixthly, *If no man shall be condemned, &c. but by the judgement of his equals according to the Laws of the Land;* Are not all Debtors that are Famished as aforesaid, Condemned for their Lives in effect, though but for their Debts in appearance, without any Verdict of their equals, so intended, contrary to the Law of the Land? Seventhly, do not all the Judges at *Westminster*, sell Justice, when they sell Prisoners for Debt, their Writs of *Habeas Corpus*, &c. for money, when the King would have all his Writs of Grace to be given to his Subjects *Gratis*, and no Judge to take any Fee, or Reward for any thing

thing but of himself? Eightly, Do they not deny Justice when they deny such Writs *Gratis*? Ninthly, Do they not defer Justice, when they detain poor men that areailable in Prison, while they have sufficient men ready to tender for their Bail, till they be forced to borrow money of other friends, and to send far, and stay long before they can receive it to loose their Bail in the interim, and be forced to seek others; by which delays, their Goalers Fees increase, and their Dyet, Lodging, and Expences draw charges, which they might have saved to find Bread for their Wives and Children at home; who perhaps are forced to fast by that means, and to sell, or pawn their Cows, or Clothes for this money, this damnable money, thus extorted by a Judge, for scribbling his Infamous name to a Writ, which doth but wrap a man, and his cause, faster in his clouches? O Merciless, Miserable, Mercenary Judge! that can neither give, nor lend so little as his name, to so much goodness in Policie, (if not in Charity) to give a man Liberty to breath, and take leave of his Home, upon a security of
more

more advantage both to Court, and Party, than his imprisonment to return to his Pinfold. *Radamantb* himself abhorreth such foolish covetousness. Do they not defer Justice, when by their Writs they cause Indictments, Informations, and just Suits Commenced in other competent, and more proper Courts in all parts of the Kingdom, to be removed to *westminster*, and there detained without any Tryal these 40 years? How many thousands of Papists, and heinous Malefactors that should have been punished in, and by their Counties, and Courts at home, have by this means found *westminster*, and its Courts, their onely Sanctuaries, and Priviledges for none but Eminent, Opulent, Impenitent Offendours? But is not Justice denied, when anyailable man is denied to be Bailed? Or more, when Bail is accepted upon Oath for its sufficiency, and is denied to be Filed, and the Party so Bailed in Law, detained Prisoner still, at the Judges, and Plantiffs pleasures? Briefly, Is not the Administration of all the Law, and Justice in *England*, Ingrossed and

Mono-

Monopolized at *westminster*, where the Judges and Courts assume to be chief, and do exercise a plenary jurisdiction over all others, so that they suffer none but themselves to erre, or to abuse Law; nor any to accomplish any Justice, or to reform any Errors, but onely themselves, who do pretend to correct all in their *Exchequer-Chamber*, where instead of correcting any, they confirm their own; which must be all as aforesaid. Lastly, is it unknown that they were wont to Buy their Offices of the Kings Servants, and therefore to Sell their Under-Offices to their own Servants, Attorneys, &c? And was not this the Buying and Selling of Justice that is yet unpaid for, & had need to be Reformed? Is it any reason that any should Buy Justice, and not Sell it for gain by the Bargain? Is it not Bought to that end? Is it not to that end, Judges neglect to give Attorneys their ancient Oath, whereby they were wont to be Sworn to do no Falshood, nor cause any to be done in their Courts; and if they knew any, to give knowledge thereof to the Judges, &c. that they should increase no Fees, &c. (as
you

you may read it at large in the latter end of the *Attornys Academy*. Is it not to the same end that Judges neglect to give all Plaintiffs for Debts or Trespals, their Oaths that the Debt or Trespass amounteth to 40^l or more or else let the Suit be Tryed in the Sheriffs Court at home, according to the *Stat. of Gloc. 6. Ed. 1. c. 8*? And is it not likewise to the same end, they neglect to take security of all Plaintiffs, to prosecute all Actions with effect, or pay Costs and Damages to the Defendants, if they prove not their Issues? which Judges anciently used to do, and still ought, before any Declaration be admitted, or Plea required, as saith the *Mirror of Justice*? fol. 64. b. Is it not to the same end the *Chancery* neglecteth to take the Oath of all Complainants to make good their Bills in all points, or pay Costs and Damages in case they fail, and that before any *Sub-pœna* be granted them, according to the Statute 15. H. 6. cap. 40? And were not all well ended, if all the end were that none were forsworn for Injustice, but the chief Justices? (though comfortless for them to be so wretched as to have no associates,)

is

is it not the worse for the People, that their Ministers which ought to be Sworn as aforesaid, are not? Whereby old Attorneys without hazard of Perjury, lead young Judges Sworn to what they know not, to do what they should not? as when so many subtil and lying *Mercuries*, direct so many coverous and blind *Cupids* to shoot forth their arrows, that they may stick them where they please, and commend the shooters for hitting the marks that yield them the best sports of the gain?

The rest of this *Charter* I shall omit as aforesaid, for the reasons aforesaid, and shall conclude this with the beginning of another, made in Confirmation, Renovation, and Perpetuation thereof, by King *Edward* the first, in the 28 year of his Reign, as followeth: *viz.* EDWARD by the Grace of God, King of England, Lord of Ireland, Duke of Guyen. To all Arch-Bishops, &c. greeting. We have seen the great Charter of the Lord Henry our Father, of the Liberties of England in these words: And so beginneth the Charter as aforesaid, and endeth this, and it together, saying, We ratifying and approving these gifts, and grants aforesaid, confirm, and make

make strong the same for us, and our Heirs perpetually, and by tenor of these presents renew the same, willing, and granting for Us, and Our Heirs, that this Charter, and all and singular its Articles for evermore, shall be stedfastly, and inviolably observed; And if any Article in the same Charter contained yet hitherto peradventure hath not been observed, nor kept; We will, and by Our Authoritie Royal command from henceforth firmly they be observed. These, &c. being witnesses. Given at Westminster under Our own hand the 28 of March, in the 28 year of Our Reign.

Again, where the L. C. maintaineth the Statute of Marlebridge made 51 Hen. 3. cap. 5. which saith, The great Charter shall be observed in all its Articles, as well in such as pertain to the King, as to others, and that shall be enquired of before the Justices in Eyre in their Circuits, and before Sheriffs in their Counties when need shall be, and writs shall be freely granted against them that do offend, before the King, or the Justices of the Bench, or before Justices in Eyre, when they come into those parts, &c. And the offenders when they be convicted shall be grievously punished by our sovereign Lord the King, in form above mentioned.

Expost
and
Quer.

I shall but ask, Why not Justices in Eyre still? And why not Writs *Gratis* sent to the Sheriff of every Countie, to enquire of offences, and offenders against the great *Charter*? And doth not this Statute prove, that Sheriffs ought to have such Writs, and to make such enquiries? And that the King referred himself, as well as others, to the judgements, as well of Justices in Eyre, as of the Justices of the Bench? and that he would have his Writs granted as well against him, as others, and that *Gratis*? doth it not futher prove, that Kings accounted the Justices in Eyre, his Justices, and their Court, his Court; as well as the *Kings-Bench*? how therefore doth the Lord Coke hereafter call them new Justices, and their Court, new Court? But more of that in its place.

Now having done with so much of *Mag. Charta* as I promised: and with the 5 Chapter of the Statute of *Marlebridge*: and the 8 of the Statute of *Glocester*. Here ensueth the Confirmation of the great *Charter*, made at *London* 10 *Octob.* Anno 25 *Ed. I.* three years before that which

Judges judged.

51

is Printed before it, because that containeth all the *Charter* in 38 chapters at large, and this but 7. In the First of which it confirmeth both *Charters*, and every Article thereof, both made 9^o H. 3. in general words, as followeth, *viz.*

Edward by the grace of God, King of England, Lord of Ireland, and Duke of Guyen. To all those that these present Letters shall hear or see, Greeting: Know ye, that We to the Honour of God, and of Holy Church, and to the profit of Our Realm, have granted for Us, and Our Heirs; That the Charter of Liberties, and the Charter of Forrests, which were made by the Commonalty of the Realm, in the time of King Henry Our Father, shall be kept in every point without breach. And We will, that the same Charter shall be sent under Our Seal, aswel to Our Justices of the Forrest, as to others; And to all Sheriffs of Shiers, and to all Our other Officers, and to all Our Cities throughout the Realm, together with Our writs, in the which shall be contained that they cause the foresaid Charters to be published; And to Declare to the People, that We have confirmed them in all points. And that Our Justices, Sheriffs, Bishops, and other Ministers, which under Us, have the Laws of Our Land to guide, shall allow the same Charters

Cap. i.
Char-
ters.

W 2

pleaded

pleaded before them in Judgement, in all their points, : That is to wit; The Great Charter, as the Common Law; And the Charter of the Forrest, for the Wealth of Our Realm.

L. C.
upon
Conf. C.
f. 526.

The Title of this Statute (saith the Lord Coke) is Confirmationes Chartarum de Libertatibus Angliæ & Forreſtæ, viz. The Confirmations of the Charters of the Liberties of England, and of the Forrest: And true it is (saith he) that hereby the said Charters are expreſſly confirmed; but they are alſo excellently interpreted, (which is a Confirmation in Law) for here is nothing Enacted, but is included within Magna Charta. And by the Commonalty (saith he) is to be understood, by the conſent of all the Realm, by Authority of Parliament: and many times by the Commonalty of England, is ſignified an Act of Parliament, &c. before Printing, and before the Reign of King Hen. the 7th, Statutes were Ingroſſed in Parchment, and by the Kings Writ Proclaimed by the Sheriff of every Countie: this was the ancient Law of England, that the Kings Commandments iſſued, and were publiſhed in form of Writs (as then it was.) An excellent courſe, and worthie to be reſtored,

stored, &c. This Clause (saith he) is
 worthie to be written in letters of gold,
 viz. That our Justices, Sheriffs, Ma-
 jors, and other Ministers, which under
 us have the Laws of the Land to guid
 them shall allow the said Charters in
 all points, which shall come before them
 in Judgement. And here it is to be ob-
 served, That the Laws are the Judges
 Guides, or Leaders, according to that
 old Rule, *Lex est Exercitus Judicum*,
 viz. The Law is the Judges Armie :
Tutissimus Doctor, viz. The safest
 Teacher : or *Lex est optimus Iudicis*
Synagogus, viz. Their best Synagoug.
 And *Lex est tutissimus cassis*, viz.
 Their safest Fortres. There is an old
 legal word (saith he) called *Guidagi-*
um, viz. Guidage, which signifieth
 an Office of guiding Travelors through
 dangerous and unknown ways. Here
 it appeareth that the Laws of the
 Realm, hath this Office to guid the
 Iudges in all causes that come before
 them, in the ways of right Justice, who
 never yet misguided any man that cer-
 tainlie knew them, and truly followed
 them. The sence of the words, That
 the great Charter is to be holden for the
 Common Law, is, that it is a Common
 Law to all, in amendment of the

Realm; that is, of great mischiefs, and inconveniencies, which oppressed the whole Realm, before the making thereof.

Expost
and
Quer.

Doth not the Lord Coke by all this his expression, commend this Statute very highly? Why did he not in his duty cause it to be observed in his time? And had not Iustices of the Forrest, and other Iustices, Sheriffs Majors, and other Ministers of his time (had they received the Great Charter with the Kings Writs) power thereby, as well as he, to cause the said Charter to be published to the People, and that the King had confirmed it in all points? Why did he (by neglecting his duty to send the said Charter and Writs unto them accordingly) make them fail of their duties? Doth not the Lord Coke confess by this clause, *worthie*, (as he saith) *to be written in letters of gold, That Sheriffs, Majors, and other Ministers, as well as Justices, and other Justices as well as those at Westminster, have, or ought to have the Law of England to be their guid, and ought to allow Magna Charta in all points, which in any Plea shall be before them.*

Why

Why then do the Iustices at *westminster* by their *Habeas corpus*, and other Writs, (as aforesaid) 'disturb, and prevent all Sheriffs, Majors, &c. to exercise their Offices, before Judgement, or after, without proof of Injustice, or manifest Errors committed by them in their Judgements? Why do not the Iustices at *Wistminster* (when they have Persons, and Causes brought before them by virtue of their Writs) allow *Mag. Car.* to be Pleaded before themselves, since they will suffer no others to hear it? How can it be true, (when they do not) that the Law is their guid? Do not they assume the sole Guiding, Learning, Interpreting, Exercising, and Over-ruling of the Law to themselves, when they suffer no other Iustices, or Ministers of the King, but themselves to have any Judgement therein, as aforesaid? Why do they bely the Law so much, as to call it their *Guid*, their *Teacher*, their *Army*, their *Synagogue*, their *Fortress*; when it is manifest, That their Attorneys, their Sollicitors, their Catch-polls, and their Goalers, are their *Guids*, *Teachers*, *Supernumerous Armies*, and *Invincible*

ble Fortresses, (as they trust, but may be deceived) all whose ways are to Injustice as aforesaid? How can that Law be called Common to all, which They, and these their Creatures, Monopolize, Ingross, and appropriate all to themselves as aforesaid?

C. 2.
Judg-
ments.

And We will, That if any Judgement be given from henceforth, contrary to the points of the Charters aforesaid, by the Justices, or by any other Our Ministers, that hold Plea before them against the points of the Charters, it shall be undone, and holden for nought.

L. Coke
upon
Con.C.
f. 527.

Whatsoever Judgement is given against this Statute of Magna Charta, &c. is made void by this Act, and may be reversed by writ of Error, because the Judgement is given against the Law; for this Act saith, *Soit de fait & pur nienttenuis, viz. as the Stat. Englisheth it self*, It shall be undone and holden for nought.

Expost
and
Quer.

If so? Why should not all Judgements (appearing as aforesaid, to be contrary to *Mag. Charta*) which are given for Arrests, and Imprisonment of mens Bodies for Debt, be undone, and

and held for nought? Why did Mr. *Garland* lately trouble the most High Court of Parliament (whereof, by so doing, he shewed himself an unworthy Member) with a ridiculous useless Act of his drawing, for the Enlarging poor Prisoners for Debt? Why did not he, (if he did ever read this place of the Lord.) mind the Parliament to command the Judges (who seem, if they have read it, to have forgot it) to reverse their Erroneous judgements against Debtors, so far as they extend to their Imprisonment, and to send their *Liberate* to all their Goalers, to set open all their Goal dores, and let forth so many of the Prisoners for Debt, as they have left alive? The poor, because they have no Estate whereof to pay; the rich, because they have Estates sufficient for all, or part; against which Estates, so much of their judgements may stand, as concerneth that, and not their Bodies: and Executions may be taken thereupon, by *Elegit*, or *Fieri facias*, according to the statute of *Westminster* the 2. cap. 18th. agreeable to *Magna Charta*, and the Parliament not to be troubled, except to Im-

D. 5. power.

power the Judges by an Order, to rectifie their judgements according to that Law which is in force, and so forgo their Errors, and Repealed Statute of the 25th of *Ed.* 3^d c. 17th. which ought to be no Guid, Leader, or Teacher, to learned and grave Judges, that can never be misguided by the right Law, if (as the Lord C. saith) *they certainly know it, and be pleased truly to follow it.* And by this course, as well the Creditors of the rich Debtors, as the poor Prisoners for Debt, (that have been wronged by the Judges Erronious judgements, and proceedings against *Mag. Charta*) may be partly redressed, and so rest satisfied, until the Parliament be pleased to right them further (as shall appear hereafter they may.) So likewise may that Prisoner, (which is Imprisoned again after his enlargement by *Garlands Act*) be Enlarged again by the same Judge that Committed him, without troubling the Parliament, or People with any such Appeal, as is lately divulged; or suffering the *Apprentices Out-Cry* to run so far, That now it will never be stopped till the Thieves be taken.

And that all Arch-Bishops, and Bishops, shall pronounce the Sentence of Excommunication against all those that by word, deed, or counsel, do contrary to the said Charters, or that in any point break, or undo them; And that the said Curse be twice a year Denounced, and Published by the Prelates aforesaid: And if the same Prelates, or any of them, be remiss in the Denunciation of the said Sentences; the Arch-Bishops of Canterbury, and York, for the time being, shall Compel, and Distrain them to the Execution of their Duties, in Form aforesaid.

Cap. 4.
Excom.
&c.

This Excommunication the Prelates could not pronounce without warrant by Authoritie of Parliament, because it concerned Temporal causes.

L.C.
upon
Confir
Cart.
f. 527.

Was not the Authority of this Parliament sufficient Warrant for Prelates to pronounce Excommunication according to the Tenor, and limitation of this Act? Doth not the Lord Coke say before, That this Act is not onely an Express Confirmation of Magna Charta, but also, a Confirmation of it in Law? Doth he not say before that; That Magna Charta should live for ever, and in all Successions of Ages for evermore? Is not the substance

Expost
and
Quer.

stance of the Excommunication given by this Act to the Prelates to pronounce ? Had the Prelates any more to do therein, but to pronounce an Excommunication ? What meaneth *Ipsa Facto* in the Act, but to let all future Ages understand, That the breach of *Mag. Char.* which is a Declaration of the fundamental Laws of *England*, is such an Offence as deserveth an everlasting Curse inflicted by the Law it self upon the Breakers for ever ? Which Curse receiveth no more strength from the Pronouncer, than a Sentence of Death from a Iudge, who doth but tell a Fellow whom the Law condemneth, what shall be the manner of his Death. If any Excommunication was ever pronounced by virtue of this Act (as there were two in two severall Kings Reigns) were not those Excommunications in force, and so to continue as long as *Magna Charta* it self ? the Prelates and their Successours neglect of their Duties, by discontinuing such Denunciations twice yearly, afterwards notwithstanding ? If so ? Are not those Excommunications still in force, except Absolutions be produced.

ced, granted , and given by equal Authority to that whereby those Excommunications were Denounced? If so? Are not Excommunications , until Absolutions, of the same accompt, and validity in Law, as Out-lawries, until they be reversed? If so? Are not all the Lands, Goods , and Chattels of all Excommunicats, now the States, as formerly they were the Kings, and so Seizable, Sequestrable, and Convertible to that use , until Absolution? And ought not satisfaction precede Absolution? Ought not that satisfaction extend to every particular man that hath been wrong'd in this case, which (as the L.C. saith) *is a Temporal case*, and so called, in respect of the interest of all men, called by the Clergy, *Temporal*, for distinction from themselves, that would be called *Spiritual*? And so (as I believe) not to be commuted by a *Prelatical Sentence*, to a trivial Pennance; nor pardoned by Parliament, without excepting every particular Interest. And what Parliament can Pardon , or Absolve Offendours against *Magna Charta*, but by the Rules of *Magna Charta*, without offending *Magna Charta* them-

themselves, and incurring the same Excommunication, as they have incurred that would be Absolved? If Excommunications be no Terrors to *Atheistical* Judges, Justices, &c. who neither Believe, nor fear, Heaven, Hell, God, Justice, nor Laws, (though they cannot in nature and reason, but know that such there are, and are to be beleived, feared, and obeyed) shall not Excommunications be sufficient Warrants for Christians, English Christians in *England*, (being warranted not onely, as the *L. C.* saith, *By Authority of Parliament*, but of many Parliaments, such Parliaments of such Infallibility as were those wherein *Magna Charta*, and all its Confirmations were made, and grounded upon the Common-Laws of *England*, which, as all Lawyers profess, were grounded upon the Law of God, the Word of God, the God of Christians, Christ Jesus, the God of Truth, even Truth it self,) to put them in Execution? If not? To what ends are Parliaments, or the Laws of God, and man, to such as dare not, or will not, if, and when they may? Doth not the Statute of *An. 1. P. & M. cap. 12.* which made

made it Felony for twelve English persons, or above, to assemble together of purpose to break any point of the Laws of *England*, imply it to be Warrantable for all the People of *England* to Assemble together, to cause the Laws of *England*, made by all their consents, to be observed, and to punish not onely the Breakers, but also the onely begetters, and causers of all the Breakers, and Breaches of all the Laws of *England*, the onely assumers of the knowledg thereof, and concealers of that knowledge from the People; so that none but themselves, can knowingly break the Laws, because they will not let them know them? Lastly, If Excommunications be nothing formidable to Lawyers, to make them care whether they incur, or shun them, but as their profit guides them? Let us see what the *L. Coke* saith, fol. 536. concerning the conclusion of this Act, and the Seals that were put to it, and the Oaths of the King and Parliament, then and for ever, for the Ratification of it, omitted in the Stat. at large, in Print, but to be seen in the Tower, Rot. Parl. 7^o. Hen. 4th. n^o. 60. beginning

ing with the word *Simile*, &c. Note (saith he) the Solemnitie of this Act, in that all the Arch-Bishops, Bishops, Earls, Barons, &c. did put their Seals thereunto. A rare example, which was done for the obliging of them the more firmly to the observation of this Act, which concerned the Laws, Liberties, and Free-Customs of their Countrey; and for their greater Obligation for the due Observation of this Act, they took a voluntary Corporal Oath.

Expost
& Q.

And let us note, that if the Judgement of God, and this Parliament, hath made the Prelates sensible of their slighting of their Predecessors Excommunications, seals and oaths? by what justice, or excuses, shall Lawyers avoid the same Judgement? And though the Ignorance of *Mag. Charta*, and the Law (which Lawyers have begotten & caused by concealing the same from them as aforesaid) can be no safe Plea for any with God, or man, without prayers for Remission, and manifestation of Repentance; yet is Ignorance a better subject for mercy, than knowing wilfulness; and the people, while ignorant of *Mag. Charta*, are more capable

ble of grace for the breaking of it, than when they know it; if they put not the Iudgements of it, in Execution, against the causers of their offence.

Now I shall let you see, that there were two *Excommunications* denounced against the breakers of *Mag. Charta*, according to this Statute; as followeth.

The Year of our Lord One thousand two hundred fiftie three, the third of May, in the great Hall of the King at Westminster, in the presence, and by the assent of the Lord Henry by the Grace of God, King of England; and the Lord Richard Earl of Cornwall his brother; Roger Bigot Earl of Norfolk and Suffolk, Marshal of England; Humphrey Earl of Hereford; Henry Earl of Oxford; John Earl Warren, and other estates of the realm of England: We Boniface, by the mercie of God, Arch-bishop of Canterbury, Primate of all England, T. of London, H. of Ely, S. of Worcester, E. of Lincoln, W. of Norwich, P. of Hereford, W. of Salisbury, W. of Durham, R. of Excester, M. of Carlile, W. of Bath, E. of Rochester, T. of S. Davids, Bishops, apparrelled in Pontificals, with tapers burning against the breakers of the Churches Liberties, and of the Liberties, or other Customs of the realm of England, and namely of those which are contained in

in the Charter of the Common Liberties of England, & Charter of the Forrest; have denounced the sentence of Excommunication in this Form: By the Authority of Almighty God, the Father, the Son, and the holy Ghost, and of the glorious Mother of God, and perpetual Virgin Mary; of the blessed Apostles Peter and Paul; and of all Apostles, and of all Martyrs; of blessed Edward King of England; and of all the Saints of heaven; We Excommunicate, accurse, and from the benefits of our holy Mother the Church, we sequester all those that hereafter willingly, and maliciously deprive, or spoil the Church of her Right; and all those that by any craft, or wilfulness do violate, break, diminish, or change the Churches liberties, and Free-customs contained in the Charters of the Common liberties, and of the Forrest, granted by our Lord the King to Arch-bishops Bishops, and other Prelates of England: And likewise to the Earls, Barons, Knights, and other Freeholders of the Realm; and all that secretly or openly, by Deed, word, or counsel, do make Statutes, or observe them being made, or that bring in Customs, or keep them being brought in, against the said liberties, or any of them, the Writers, Lawmakers, Counsellors, and the Executors of them, and all those that shall presume to Judge against them. All and every which Persons before mentioned, that willingly shall

shall commit any thing of the Premises, let them well know; That they incur the foresaid Sentence *Ipso facto*, first upon the deed done. And those that commit ought ignorantly, and be admonished, except they Reform themselves within 15. daies after the time of the Admonition; and make full satisfaction for that they have done, at the will of the Ordinary, shall be from that time forth, wrapped in the same sentence. And with the same sentence, we burthen all those that presume to perturb the peace of our Sovereign Lord the King, and of the Realm. To the perpetual memory of which thing, we the aforesaid Prelates have put Our Seals to these Presents.

What though the Form of this *Excommunication* be Popish? Is not the Substance the maintenance of *Eng-lands* Liberties? And is not that all which the meaning of this Law requireth? If Judges and Prelates, as well since King *Hen. 8.* as before, have neglected their Duties in Iterating the charge of their Functions, the first, in pronouncing Sentence, and the other in Executing it; doth not once Pronouncing, & once executing of such one Sentence of Law, as concerneth all Ages, Sexes, and

Expost
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Conditions of People to learn and remember, no less for the Preservation of their lives, and livelihoods, than Scriptures for their Salvation, take away the plea of Ignorance from all men? Shall any man commit that sin which he knoweth to be once so Declared by the Law, and think to avoid punishment because not often so Declared by Law-Professours? Are not all men bound to search the Scriptures, and learn the Laws at their perils therefore? If Ignorance were a plea, shall knowledge be excused? Professors of knowledge? nay, such as ingross that Profession from all others; nay more, such as are the onely causers and punishers of all other mens Ignorance?

It appeareth that this Sentence was Denounced in the time of King *Hen. 3^d*. Now followeth another, Denounced upon the said Confirmation made in the 25th. year of King *Ed. 1^o*. viz.

Excom.
2.

In the Name of the Father, the Son, and the Holy Ghost, Amen. Whereas our Sovereign Lord the King, to the Honour of God, and Holy Church, and for the common profit

Profit of the Realm, hath granted for him and his Heirs for ever, these Articles above written. Robert Arch-Bishop of Canterbury, Primate of all England, Admonished all his Province, Once, Twice, and Thrice. Because that shortness will not suffer so much delay, as to give knowledge to all the People of England of these Presents in Writing: We therefore injoyn all persons of what Estates soever they be, that they, and every of them, as much as in them is, shall uphold and maintain these Articles, granted by our Sovereign Lord the King, in all points; And all those that in any point do resist, or break, or in any manner hereafter procure, counsel, or any wise assent to resist, or break those Ordinances, or go about it by word, or deed; openly, or privily, by any manner of pretence, or colour: We the foresaid Arch-Bishop by our Authority in this Writing expressed, do Excommunicate, and accurse, and from the Lord Jesu Christ, and from all the company of Heaven, and from all the Sacraments of Holy Church, do sequester, and exclude.

Doth not the word, *Hereafter*, extend to all successions, and im-
 plie a Duration, as long as there be a *Mag. Charta*, and a breaker of it? Do not
 Parliamentarie Oaths, as well as their
 Laws, include absents, and futures,
 as

Expost
& Q.

as well as present? If neither Oaths, nor Excommunications be obligatorie to Atheists, shall not their hands, and seals, bind them and their Heirs, and Executors after them, as common Bonds signed and sealed between private parties, commonly do? And more specially, such as take upon them the sole Execution, and Administration of the Laws, Liberties, and Freehold of *England*? Shall not *Charters* of Parliament, made, signed, sealed, and confirmed by Authoritie of Parliaments, bind all Subjects, their Heirs, Executors, and Administrators, as well, and as far, as private *Charters* of Feofments shall bind their Contractors, and their Heirs, &c. Nay, as far as Acts of Parliament can bind, till repealed? Is not every Court called *Curia*, of the Care it ought to have to execute that charge it undertaketh? and not to exact, and raise Fees, &c. for discharging themselves of all their said Obligations to do even Justice to all men, and to force men to pay those exactions, even for doing injustice? If all before written be not sufficient to discover that to be true, and that therefore the Lives,
Lands

Lands, & Goods, possessed by Judges, Lawyers, all, or most of them, are in the States power to seize into their hands, to the use of the Commonwealth, as aforesaid; let us look a little further, and we shall find more that may. And first, the Statute called *Articuli super Chartas*, viz. Articles upon the great Charters, made 28. of Ed. 1. viz. the same year as the Confirmation at large (which consisteth of 38. chapters of *Magna Charta*) was made; proveth further, as followeth.

Stat. of
Artic.
on the
great
Chart.
A. 28.
Ed. 1.

For as much as the Articles of the great Charter of the Liberties of England, and of the Charter of the Forrest, the which King Henry, Father to our Sovereign Lord the King, granted to his People for the Welfare of his Realm, have not been heretofore observed, ne kept, and all because there was no punishment executed upon them which offended against the points of the Charters before mentioned: Our Sovereign Lord the King hath again granted, revived, & confirmed them at the requests of his Prelates, Earls, & Barons assembled in his Parliament holden at Westminster in the 28 year of his reign. And hath ordained, enacted, and established certain Articles against all them that offend contrary to the points of the said Charters, or any

Preamble.

any part of them, or that in any wise transgress them, in the form that ensueth, viz.

First of all, That from henceforth the great Charter of the Liberties of England, granted to all the Commonaltie of the Realm, and the Charter of Forrest in like manner granted, shall be observed, kept, & maintained in every point, in as ample wise, as the King hath granted, renewed, and confirmed them by this Chart. And that the Charter be delivered to every Sheriff of England under the Kings Seal, to be read four times in the year before the people in the full County, that is to wit, the next County Day after the Feast of S. Michael, and the next County Day after the Feast of the Circumcision, and after Easter, and after the Feast of S. John Baptist. And for these two Charters to be firmly observed in every point, and Article (where before no remedy was at the Common Law) there shall be chosen in every Shire Court by the Commonaltie of the same shire, three substantial men, Knights, or other lawfull, wise, and well disposed Persons to be Justices, which shall be assigned by the Kings Letters Patents under the great Seal, to hear, and determine (without any other writ but onely their Commission) such plaints as shall be made upon all those that commit, or offend against any point contained in the aforesaid Charters, in the Shires where they be assigned, as well with.

Justices of
Oyer &
Term.

in Franchises, as without, and as well for the Kings servants out of their places, as for other. And to hear the plaints from day to day without any delay, and to determine them without allowing the delays which be at the Common Law: And the same Knights shall have power to punish all such as shall be attainted of any Trespass done contrary to any point of the two said Charters (where no remedy was before at the Common Law, as before is said) by Imprisonment, or by Fine, or by Amercement, according to the Trespass. Nevertheless the King, nor none of his Council that made this Ordinance, intend that by virtue hereof, any of the foresaid Knights shall hold any manner of Plea by power, for to admit any suit in such cases wherein there hath been remedy provided in times passed, after the course of the Common Law by writ. Nor also that the Common Law should be prejudiced, nor the Ch. aforesaid, in any point. And the R. willeth, that if all three be not present, or cannot at all times attend to do their Office in form aforesaid, the King commandeth that two of them shall do it. And it is ordained that the Kings Sheriffs, and Bailiffs shall be attendant to do the commandments of the foresaid Justices, as far forth as appertaineth unto their Offices. And besides these things granted upon the Articles of the Charters aforesaid. The King of his special Grace for redress
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of the grievances that the people hath sustained by reason of his Exors, and so, the amendment of their Estate, to the intent that they may be the more ready to do him service, and the more willing to assist, and aid him in time of need; hath granted certain Articles, the which he supposeth shall not onely be observed of his liege people, but also shall be as much profitable, or more, than of the Articles heretofore granted.

L. Coke f. 537, this Act, was (saith the Lord Coke, 538, as in the Preamble is suggested, 539, that there was no certain punishment many points established by the said Charters against the violators of the same; which also by this Act (saith he) is remedied: And the word, People here (saith he) doth include all the Kings Subjects; &c. And again, the word, Pain ne suit estable, some say they (saith he) Pain ne suit execute, that is true in effect; but the Original is, Pain ne suit estable; that is, yet if pain was set down certain: And (saith he, fol. 529.) This Act had but the force of a Charter, until confirmed in this Parliament, the 34th Ed. 1. so that these Charters should be read three times in the year, in full County, bene-

an order taken for the publishing. And
Ou remedie ne suit avant, &c. is to
be construed (saith he) where no Action
was given by the Kings writ, to be pur-
sued at Common Law, &c. Again, here
(saith he) for the better Execution
of those glorious two Lights, Magna
Charta, and Charta Foresta, a new
Court, and new Justices were ap-
pointed, &c. Again (saith he) these
clauses against the Kings Servants out
of their places, as well as others: And
to bear the Plaints without delay, day
by day, and to determine them without
admitting such delaies as be at Common
Law, was the first ground of the raising
of the Justices called, Trail Baston, and
their Courts so called, in respect of
their precipitate proceedings from day
to day, without such convenient leisure
and time, as Common Law allowed, &c.
they in the end had such Authoritie, as
Justices in Eyre; but albeit they had
their Authoritie by Act of Parliament,
yet if they erred in judgement, a writ
of Error did lie by the general Rule of
the Common Law, to reverse the Judge-
ment in the Kings-Bench; which being
resolved, and known, and their
Jurisdiction fettered with so many li-
mitations, their Authoritie, by little and
little vanished.

Expost
and
Quer.

Was there any certain Pain established by this Statute, against the violators of *Magna Charta*, other than by Commission in Eyre, that the Justices might determine, and punish the Offenders by Imprisonments, Fines or Amerciaments, according to the Trespass? Ought not the Justices of the *Kings-Bench* to have so punished all such as were Indicted before Sheriffs, or Justices in Eyre, who had power to inquire, and certify them of all such Offenders, and Offences against *Magna Charta*, by the Statute of *Marlebridge*? 51. Hen. 3^d? Doth not the Lord Coke say elsewhere, That all Statutes ought to be construed so, as that there should be no failer of Justice: Should not the Justices of the *Kings-Bench* have construed *Magna Charta* so? Doth not the 14th chap. of *Mag. Charta* expressly direct; That all offenders ought to be Amerciated by their equals, according to the quantitie of the Trespass? Doth the Lord Coke speak truth, when he saith, this Statute gave any man Remedie for the certaintie of the punishment, other than *Magna Charta* did before? Was it not made more uncertain by referring it to the Justices?

ces in Eyers discretion, whether Amerciaments, Fyne, or Imprisonment? Doth he not confess plainly, (when he saith, *It is true in effect, that the Pain was not Executed, as some read, instead of the Pain was not Established,*) That it was the fault of the Justices of the Kings-Bench, in not Executing the Pain of Amerciying, &c. (as they might, and ought to have done) was the cause of Impowering the Justices in Eyer, (who were but Enquirers before) now to determine, and punish such Offenders, and Offences, as they did forbear, viz. The Kings Servants, with whom by this time, they of the Kings-Bench tampered for their Offices? And was it not for the same cause, the people were Declared to be choosers of Justices in Eyer? And doth not the Lord Coke shew a great spight between himself, and his brethren; whom he would have to be ancient; and the Justices in Eyer, whom he calleth a new Court, and new Justices? And shew his Memory to be weak, as his Envy was strong, when he is forced to give himself the Lye, (either here, or in his Exposition of the Stat. of *Marle-*

bridge, where he saith; They were then Justices, and a Court, though but for Inquirie? And upon the 23th Chap. of Magna Charta; he saith, they used before that time to give charge to all Juries concerning Wears &c. Doth not the Lord Coke say, fol. 235: That Bracton wrote before the making West. 1. which was 3. Ed. 1. And doth not Bracton lib. 3. cap. 11, 12, and 13. say, Justices in Eyre were before his time? Doth not Camden in his Britannia, pag. 104. say, They were Instituted by King Hen. 2? Doth not Froveden in his Annals, part. poster. fol. 113. b. confirm the same? And add that R. Hen. 2. divided the Realm in six parts, & settled three Justices in Eyre to every part, whose names he relateth? And doth not the Mirror of Justice lib. 3^o. Tit. 10. Justice in Eyre, declare their power at large? And as for their Election by the people, doth he not say, fol. 538. That Magna Charta, &c. containeth the substance of all that is contained in these Articles? And doth he not say in his Preamble, That Magna Charta is an Act declarative of the ancient Laws, and Customs of England before it, and no introductive of any new?

And

And fol. 558. That of ancient time, before the making of this Act, all such Officers, or Ministers, as were instituted; either for Preservation of Peace of the County, or for execution of Justice (because it concerned all the Subjects of that County, and they had a great interest in the due and just exercise of their places) were by force of the Kings Writs in every several County, chosen in full and open County, by the Free-holders of the same County? Again, (saith he,) So it was then, and yet is, of Coroners, and so it was then, and yet is, of Knights of the Shire for Parliaments; and of the Wardens of a Forest, and likewise it was of ancient time of the Sheriffs of the County, and restored by this Act: but this is altered by divers Acts of Parliament. Now were not Justices in Eyre therefore that were before *Magna Charta* chosen by the people, as they were Ministers of Justice, wherein the people were concerned? And were they by this Act but restored to their ancient jurisdiction, as (the Lord Coke saith) Sheriffs were? Was not that alteration which was made by divers Acts of Parliament, made by such Acts as were contrary to

Magna Charta? And are not, or ought not all such Acts to be void, (as the *L. Coke* hath elsewhere said?) Doth not these contradictions declare the Lord *Coke* to have been distracted with spight and envy against Justices in Eyre? And where in this leaf, he would perswade the people to suspect Justices in Eyre, of corruption, and Monopolizing justice to wrong the people that chuse them; can the people believe that these Justices (who are to be chosen by them, and to be displaced by them, when, and as often as they see cause) will, or can wrong them more, than those chosen by the King and his Servants, without their consents, unless they can believe that they may be perswaded to give their consents to wrong themselves? Is it not a Bull of less formality than ever any Popish Bull was, (keeping a man off with his Horns, That he shall have no hold of his tail) when he saith, *That the clause, where no remedy was before, &c. ought to be expounded, where no Action was given by the Kings writs, to be pursued at Common Law?* Since by the Statute of *Marlebridge*, Justices in Eyre were to inquire

inquire by the Kings Writs ; and now are, by exprefs words of this chapter, not onely to inquire, but alfo to determine by virtue of their Commissions, without the Kings Writs ? And what cause could they, or can any other Court determine by virtue of their Commission, without the Kings Writs, but is Actionable by the Kings Writs ? What doth this Statute give by virtue of this Commission, if all things Actionable by Writs, be not determinable by these Commissions, without Writs ? And what doth this Statute avail, if not constructable as others, so that there should be no failer of justice ? Where was the failer of justice, but in the Kings Courts, and Iudges, in not executing justice upon the Offenders of *Magna Charta* ? Doth it not therefore appear that the said clause (*where no Remedy was before*) ought to be expounded, where no remedy was given before by Iustices in *Westminster* against the Kings Servants, and themselves, that were the greatest contractors in the breaches of *Magna Charta* ? Were not the Iustices in Eyer therefore inabled with a power to supply their defaults

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faults, and to do right to the People, against the King himself, and all his Servants at *westminster*, that wilfully failed in their justice and power? And where he saith; *The Justices called, Trail Baston, had like authoritie as Justices in Eyre, and committed Errors, & upon pretence thereof, had all their proceedings transported to the Kings-Bench*; doth it not appear by the Statute called, *Ragman*, that those Iustices were made by the King, without the consent of the People, and sent abroad (perhaps of purpose) to err and abuse the people, to give colour to the *Kings-Bench*, to send their Writs of Error, for the proceedings of the Iustices in Eyre (upon pretence of like Errors) so to suppress all Iustice against themselves, and their Creatures? Doth not the Lord *Coke* herewithal prefer the chargeable delays of causes (spun out by Termes, and Years,) before speedy justice done day by day, at mens own doors, which he calleth, *Precipitat*? Doth he not ground this course, for suppressing speedy justice by Writs of Errors, upon the resolution of the Judges at *westminster*, which he al-
leadgeth

leadgeth as sufficient to maister Authority given by Act of Parliament? And is it not the resolution of all Lawyers, that no power but Parliament, is equal to Parliament, and no Parliament to be so impowred as to cross *Magna Charta*, and its Confirmations? Doth he not further (fol. 559.) alleadge the resolution of all the Iudges of *England*, against the King and his Councel, for an Erroneous Act, when they had chosen a Sheriff for *Lincoln* in a case of necessity, without the consent of the People? But to hasten this Trearise to an end, I shall end this Statute for this time, with few chapters following, viz.

The King hath granted unto his people, that they shall have Election of their Sheriff in every Shire (where the Sheriffralty is not of the Fee) if they list.

I shall say no more to this, than hath been said before.

In Summons and Attachements in Plea of land, the writs from henceforth shall contain 15. days full at the least, after the Common Law, if it be not in Attachement of Arrest taken

C. 15.
Summons.
& Attach.

taken in the Kings presence, or of Pleas before Justices in Eyre, during the Eyre.

Expost
and
Quer.

Upon this I must ask, Is not a Writ of Debt, Summons? Should not that be given to the party which ought to be summoned? Should not an Attachement follow by distinction of 15. days, as this Statute prescribeth? Shall the repealed Statute of the 25th of Ed. the 3^d, serve Lawyers turns to make a distinction between a Plea real, and Personal? And shall that Writ of Summons be counterfeited, either in it self, or in its return, as afore said.

Ca. 16.
False
Retur.
of Wr.

Such Executions shall be done of them that make false Returns of Writs, (whereby right is deferred) as it is ordained in the 2. Statute of Westminster, with like pain, at the Kings commandment.

L.C.
upon
Ca. 16.
f. 568.

This is an Act of confirmation, whereby the Statute of Westminster the 2^d. cap. 39th. touching false returns, is confirmed.

Expost
& Q.

Doth not the 2^d Statute of Westminster cap. 39. say, That the King hath commanded that Sheriffs shall be punished

punished by the Justices once or twice if need be for such false Returns? and if they offend a third time, none shall have to do therewith but the King, &c?

Doth not the Court of Kings-Bench assume the King to be always there in Person? And what they speak, to be his own speech? Is it not they therefore that should punish Sheriffs for their false Returns, the third time of their offence? But is it not indeed they, and their Creatures, as well as those of the *Common-Pleas*, do make false Returns in the names of the Sheriffs of *London*, and *Middlesex*, and do consequently make those Sheriffs liable to Actions, as aforesaid? How can they punish those Sheriffs for those false Returns, which they themselves suffer their Clerks to make, unknown to the Sheriffs, as aforesaid? And who but they cause, or suffer all Sheriffs falsely to Return Exigents with the words, *Per judicium Coronatorum*, and the Coroners names, who know no such thing? And if any man be Out-lawed without the judgement of the Coroners of his County, or any mention made thereof in the Sheriffs Return, is not that Outlawry as injurious to the

the Party, Perjurious in the Judges who admit such a Return, and proceed upon it, and as Illegal in the Sheriff that makes such a Return, and as different from due Proces of Law, as the other? And do not those false Returns filed upon their Records, make all their proceedings thereupon, false, and faint Actions as aforesaid? And if all before written be not sufficient to make it appear to the world, that they are not onely Forgers, Perjurers, and Anathema's themselves, but also the onely causers of all others to be, or be accompred the like? And that their Lives, Lands, and Goods, are in the immediate dispose of the present State, by the judgements and confessions of their own mouths? Behold their Oath, which they voluntarily take when they assume their places, whereby they binde themselves further, before God, and man, as followeth, *viz.*

The
Oath
of the
Kings
Judges

Ye shall Swear, that well and lawfully ye shall serbe our Soberaign Lord the King, and his people, in the office of Justice, and that lawfully ye shall Counsel the King in his business, and that ye shall not counsel,

counsell, nor assent to any thing which may turn him to damage, or disherison, by any manner way, or colour. And that he shall not know the damage, or disherison of him, whereof he shall not do him to be warned by your self, or by other. And that he shall do even Law, and Execution of right to all his Subjects, rich, and poor, without having regard to any person. And that you take not by your self, or by other, privily, nor apertly, gift, nor reward of gold, nor silver, nor of any other thing which may turn to your profit unless it be meat, or drink, and of small valure, of any man that shall have any Plea, or Proces, hanging before you, as long as the Proces shall be so hanging, nor after the same cause. And that he take no Fee, as long as he shall be Justice, nor Robes of any man, great or small, but of the King himself. And that he give none advice, nor Counsel to no man, great nor small, in no case where the King is party. And in case that any of what Estate or Condition they be, come before you in your Sessions with Force, and Arms, or otherways against the Peace, or against the form of the Statute thereof made, to disturb Execution of the Common Law, or to manace the people that they may not pursue the Law, that he do their Bodies to be Arrested, and put in prison: and in case they be such, that he may not Arrest them, that

Dr.

Ye certifie the King of their names, and of their Disposition hastily, so that he may thereof ordain a convenient remedie: And that You by Your selfe, nor by other, privily, nor apertly, maintain any Plea, or quarrel, hanging in the Kings Court, or else where in the Countreie: And that Ye denie to no man common right by the Kings Letters, nor none other mans, nor for none other cause; and in case any Letters come to You, contrarie to the Law, that You do nothing by such lett, but certifie the King thereof, and go forth to do the Law, notwithstanding the same Letters. And that Ye shall do, and procure the profit of the King, and of his Crown, with all things where Ye may reasonably do the same. And in case Ye be from henceforth found in default in any of the points aforesaid; Ye shall be at the Kings Will, of Body, Lands, & Goods, thereof to be done as shall please him: As God You help, and all Saints. Anno, 18. Edward, 3. Stat. 3.

Expost
and
Quer.

If Atheists can perswade Christians that this Oath was no binding for them that had taken it, (even the Wise, Learned, Reverend, Judges, Sages, Scientissimous Interpreters of the Laws of England,) sufficient to keep them within the compass of their Oath, Law, and

Know-

Knowledges? Shall not Christians perswade themselves, that it is a sufficient Confession, Declaration, and judgement of their own mouths that made it, that their forfeitures, *viz.* their Lives, Lands, and Goods, in case of their breach of any point of this Oath, are now immediately in the power of the State to dispose of to the publique use, at their pleasures, without any further Proces, or proceedings in Law, but onely to give Order, and Warrant to Arrest the persons of such Offendors to stand to their censures; and to Sequester their Estates, and to divide them to the said use, accordingly? Did Lords ever use any more Law than their own Wills, when they Sequestred, and punished their villains? Had Lords any more Law, Right, or Reason, to Sequester, and punish their villains at their own Wills, but for that their villains did take their Lands upon conditions to do those services which they and their Lords agreed upon, and gave their Lords their Oaths (as their greatest bonds) to perform those conditions, or in case of breach, to suffer their Lords to repossess their Lands, with the
for-

forfeitures of their Goods, (which they gained) and their Lives (which they sustained) upon the same? Was the Oath of a Villain (though made by Parliament, to the end that Lords should be well served by their Slaves in their private and meanest Offices) of as considerable consequence to be observed, or in default thereof, their forfeitures to be executed, as the Oath of Judges, made and Confirmed by several Parliaments, to the end, that the common-wealth should be well served by their Justices in their publick, and most honourable (if rightly served) Offices of Judicature, and administration of Justice? Are not such Villains, as dare inroach, not onely upon their Lords Lands, and Estates, but also upon their Lives, and Liberties, dangerous, transcendent, Hyper-Prelatical Usurpers? Are not such Usurpers intollerable mischiefs in a Common-wealth? Who being sworn servants to the Common-wealth (as by this Oath it appeareth the Kings Justices were) make all the Common-wealth their servants, to attend their Trains at *Westminster* at their pleasures? And
all

all Prisoners for Debt, not onely their own Villains, but also Villains to their Villainous Goalors, and Slaves to their Slaves? Are not the meanest of the Free-People of *England*, interested in the due execution of Justice, to which these Judges were sworn? (as well to them, as to Kings) and consequently ought they not to be such Lords as dare, and will take the forfeitures of such Villains, as do them daily Injustice? Is not this Oath a sufficient Evidence in it self, that the takers of it, have, & do dayly break it? & cause all others that have, or do break it, to do so likewise? Since Kings and People have wholly referred themselves, and their Estates, not onely to the Justice of their Judges, but also to their fatherly advertisements, and admonitions (whereby they ought not to suffer any that depend upon them, to err through ignorance) and they (contrariwise) admonish none not to offend, but suffer, and cause more to offend than willingly, and wittingly would; and so do, for want of such admonitions, much more increase, and enhance the Markets of their Justice, by suffering no other

ther Judges to admonish, or Justifie any offenders at home, and ingrossing all to themselves at *Westminster*, or before such as they send to fripper for them, in Assizes, Goal-Deliveries, and *Nisi prius's*. Have not some present Grafts of the old stock Judges of Assizes in possibility for the *Country*) & their Agents in *Chancery*, procured several late Injunctions to be dissolved in *Chancery*, without the privacy of both parties whom they concerned, to the end onely to beget work for them in the Assizes, lest they should want better? Did our late Judges lawfully counsel King *Charls* in his busines, when they gave their Resolutions for him concerning the Ship-money? Did they not assent to a thing, or things, that turned to his dammage and disherison, and overturned him, and his Posterity out of three Kingdoms, and his life to boot, when they assented to Ship-money, and Monopolies? Did not the Kings Council and other Serjeants, and Lawyers, draw (if not plot) all such Patents? Got they not more by their Fees, for their advise therein, (which were present pay) than the King did by his reservations for interest in those

those Grants which are yet in Arrear? Was any thing reserved to the King thereby, but what his Councel learned thought fit, and advised him to take, and the Patentees to give? Did not those Judges, that had the keeping of both the Kings Seals, assent to all those unlawfull things, whatsoever they Sealed? Briefly, doth not this Oath in every point evidence the Judges at *westminster*, and their brethren to have been the chief betrayers of Kings and People in their chief trust, to guide and hold both in the right way, and did they not lead both wrong? And thereby are the chief Authors of all the blood spilt, and estates ruined in these three Kingdoms, in and by these late Wars, which were undertaken for Reformation, onely of such deformities in Law, and Government, which (you see) they had power to keep in form by their lawfull judgements, or admonitions to the right, or not consenting to the wrong? Do not our Records, and History testifie, that all the Civil Wars of *England*, were alwaies undertaken for Reformation of Injustice, evil Government,

ment, and corrupt Lawyers that were alwaies the causers thereof, by breaking, and causing to be broken the Liberties of *Magna Charta*, which the People sought alwaies to recover? Were not *Hugh D'Arigo*, Chief Justice of England, *Walter D'Langton*, Lord Treasurer of England, *Brember*, *Trisilian*, *Bellknapp*, *Thorp*, &c. examples of their times in that case? If so few examples will not serve to make all Judges mend, should not all such Judges be made examples, to serve posterity to see that such evils are not necessary for Common-wealths? Shall such Extrajudicial Judges, such lawless Lawyers, &c. as will not be tied by Oaths, made in, and by Parliaments; Excommunications denounced by Authority of Parliaments; *Charters* Signed, Sealed, and Confirmed in, and by Parliaments; nor by Acts, Laws, and Statutes made by full and free Parliaments; be suffered to sit with Christians in Parliaments to make Laws, Votes, Oaths, and other Obligations upon Christians, which shall be none to themselves? But let us see further, what an other Act of Parliaments saith to this Oath, as ensueth, viz.

Edward

Edward by the Grace of God, &c. The
 To the Sheriff of Stafford, greeting. Statut.
 Because that by divers complaints 20. E. 3.
 made to Us, We have perceived Pream.
 that the Law of the Land, which We Letter.
 by Our Dath are bound to main- Justice.
 tain, is the less well kept, and the
 execution of the same disturbed ma-
 ny times, by maintenance, and pro-
 curement, as well in the Court, as
 in the Countrey. We greatly moved
 of Conscience in this matter, and for
 this cause, desiring as much for the
 pleasure of God, and ease, and qui-
 etness of Our Subjects, as to save
 Our Conscience, and for to save and
 keep Our said Dath, by the assent of
 the Great men, and other wise men
 of Our Council: We have ordein-
 ed these things following, viz.

First, We have commanded all Cap. i.
 Our Justices, that they shall from
 thenceforth, do even Law, and execu-
 tion of right to all our Subjects
 rich & poor, without having regard
 to any person and without letting to
 do right for any letters, or command-
 ment which may come to them from
 Us, or from any other, or by any o-
 ther cause. And in that any letters, Letters.
 or letters, or commandments come to the
 Justices, or to other, deputed to do
 Law and right, according to the u-
 sage of the Realm, in disturbance of
 the Law, or of the execution of the
 same, or of right to the parties; the
 Justices, and other aforesaid shall
 pro-

Justice

Fees.
Roabs

proceed, and hold their Courts, and
 Processes where the Pleas, and
 matters be depending before them,
 as if no such Letters, Writs, or com-
 mandments were come to them. And
 they shall certifie Us, & Our Coun-
 cel of such commandments as be con-
 trarie to the Law, (as before is said)
 And to the intent that our Justices
 should do even right to all people, in
 the manner aforesaid, without more
 favour shewing to one, more than to
 another, We have done Our said
 Justices to be sworn, that they shall
 not from henceforth, as long as they
 shall be in office of Justice, take Fee
 nor Roabe of any man, but of Our
 self. And they shall take no gift, nor
 reward by themselves, nor by other,
 privily, nor apercly of any man
 that hath to do before them, by any
 way, except meat and drink, and that
 of small valure; and that they shall
 give no counsel to a great man, nor
 small, in case where We be Partie,
 or which do, or may touch Us in any
 point, upon pain to be at Our will,
 Bodie, Lands, and Goods, to do
 thereof as shall please us, in case they
 do contrarie: And for this cause
 We have increased the Fees of the
 same our Justices, in such manner,
 that it ought reasonably to suffice
 them.

Expost
and
Quer.

Doth not the King say here, He is
 bound by his Oath to maintain the
 Laws

Laws of the Land? Dorth not the Lord *Coke* say before, *That a King in his Politick capacitie cannot dye?* Did not, or ought not all Kings of *England* take the like Oath as this King did? Were they not therefore bound to maintain the Laws of *England* as well as he? and to be advised, and ruled by their Judges, how to maintain them? as the Oath of the Judges, this Statute, and others, do manifest they were? Are not Judges as Immortal as Kings in their Politick capacity? Are they not bound by their Oaths, not onely to maintain, and execute the Laws of *England* against all men, without regard of Persons, but also to advise their Kings to maintain them, and how so to do, and to hinder, or not consent with their Kings to break them? Were not the maintenances (whereof the King here complaineth, and the procurements as well in Court, as in Countrey, whereby (he saith) *the Laws, and the due execution thereof were disturbed*) the remainders of the Factions of the *Spencers*, and others, who in *Edward* the 2^d his time had made such Judges, as had put all Laws out of all order; so

F

that

that this King, being *Edward* the 3^d. could not reform what had been deformed hitherto? but now endeavoureth to do it by means of this Oath made in Parliament in the 18th. year of his Reign, and this Act made in the 20th. If Kings endeavoured to perform their duties (as this King did, and Judges would not) should not such Judges suffer, as in this Kings time divers did? If Kings, and Judges, (contrary to their Oaths, and Offices) omit their duties (as this Kings Father, and his Judges did) should not such Kings and Judges suffer for their defaults, as he and they did? If Kings and Bishops did lately neglect their duties, (contrary to their Oaths, and Offices) and were punished for their defaults? why not such Judges were the greater Delinquents for suffering them so to offend? and more for consenting thereto? And more than that, when they advised the same? If the secret Sacrilege of one *Achan* deserved Gods indignation against all his People of *Israel*, until they discovered, and punished him, and his Offence? why doth the manifest extortion (a fine more

Judges judged.

¶ 101

less prohibited than Sacriledge) of so many *Achans*, merit of Gods Judgements against the whole Nation of *England*, if they prosecute not, or leave unpunished, their Offences, which are more than Extortions; as Perjuries, Forgeries, Sacriledge it self, and divers others spoken of before. *Judge, O People? Judge, yourselves, O ye People, least ye be Judged.*

F I N I S.

P O S T - S C R I P T.

I*F it please the Parliament to require more proofs than common experience of the common breach of all the Common Law of England, by our common Mercenary Judges, they may cause Commissions in Eyre, or other Oyers, and Terminers to be issued to clear the matter by more particular evidences.*

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Eight Observable
P O I N T S
 O F
L A W;

Executable by Justices of
 the Peace in their *Counties*,
 and Magistrates in their
Corporations.

Necessary to be known to the
COMMON PEOPLE.



Counties and Sheriffs Turns, were *choise*
 ancient Courts in *of all*
 the time of King *Officers*
Arthur, & before; and
 And in the Turns *Trust,*
 were tried all Pleas of the Crown; & *anci-*
 in the Counties all *ently in*
Common-Pleas un-
 der fourty shillings without Writ; *the*
 and above, to any value with Writs, *People,*
 according to the Law maxim, *cōfirm-*
Quod Magna
placita de Catallis, debitis &c. que
Chart.
summam 40^l. attingunt, vel excedunt
 F 3 *secundum*

secundum legem & consuetudinem Anglie, sine brevi Regis placitari non debent. See the Lord Coke upon the 35th Chap. of *Magna charta*; and upon the Statute of Gloucester fol. 310. & 312. Hundreds, and Count Barons have the same power, and rights, and neither Sheriffs nor Stewards are Judges, but suiters onely, fol. 312. And so all men were to have Law and Justice at home, cheap and near, and not to fetch it from *Westminster*, far and dear. And the Conservators, otherwise called Guardians of the Peace before *Magna charta*, and since; had all necessary power to govern their Counties in Peace, and to execute all Laws conducing thereunto, and to command the power of their Counties to assist them; and were chosen (as all other Officers of Peace and Trust were) by their Counties, as the Lord Coke affirmeth.

2. *This Mutuatus* is usual in the Kings-Bench, and Common-Pleas, to fetch poor men not worth 40. s. from York or Cornwall to London, for 5. s.

2. As Superiour Courts ought not to ineroach upon Inferiour, so the Inferiour ought not to defraud the Superiour, in these causes that belong

to them : viz. Neither debt or less; and so ought a man be sued in any Court of Record for debt not amounting to 40^l. by way of *mutuatus*, and other lawless tricks

or less; and so Outlaw him in the Common-Pleas, if he come not; which example other Courts of Record follow too much.

daily used by Attornies; nor in any inferiour Court for debt of 40 shillings, or exceeding, by dividing it into Actions under 40 shillings. In which cases the Defendant ought to be admitted to plead to the jurisdiction of the Court, and to have a *Prohibition* to stay the suit: see the Lord Coke, upon the Stat. of Glouc. fol. 311. And all Courts were to dismiss all Actions entered without sufficient bail to prosecute, answerable for costs and damages. If non-suited, or cast; and not *Jo. Do.* and *Rich. Ro.* as is used. See *F. H. Just. P.* the Register, and *Fitz. H. Nat. breuium* at large. And no Court of Record was to proceed in any action of debt, before the Plaintiff swore his said debt to be 40^l. or more, and his damage in trespass to be so much at least: And if Battery, that he was beaten indeed, to his incurable hurt to that value. See the Stat. of Glouc. and the L. Coke upon it, with his

reason for the discontinuance of this practice.

3. Doth not the denial of an Habeas Corpus, to bring a prisoner before a Judge without Fees, (both to Judge and Attorney) include the sale, delay, and denial of Justice, while the prisoner is unprovided to buy it.

3. All the Kings Writs for the doing justice and right to all men freely and speedily, without delay or denial, ought to be granted; and had freely at the Kings cost: And justice ought to be done freely, without sale; fully, without denial; and speedily; without delay: whereby (saith the Lord Coke) it appeareth that justice must have three qualities, viz. To be Free, because nothing is more vile, than what is venal; Full, and perfect, that it may not halt; And speedy, because delay is a kind of denial. See the L. Coke upon the Stat. of Marlbr. chap. 80. Thus to have and do, was the Common Law of England, and the Liberties, and Right of the People before *Mig. Char.* and saved unto them by it and the best Birth-right they ever had, or can have; whereby their Lands, Goods, Wives, Children, Bodies, Lives, Honours, and Estimations ought to be protected from injuries. See the L. C. upon the 29 & 38 c. of M. C.

4 There

4. Therefore *Magna Char.* ought to be read, ^{4. All defaults, & offences of Sheriffs, Coroners Escheatours, &c. inquirable, and punishable by Justices of Peace.} and published to the People in all Cathedrals, twice yearly: And all

breakers thereof are excommunicated *ipso facto*, and so twice pronounced by two Acts of Parliament, *Tit. confirm. & excommengmt. in Rast. abridg. fol. 65. and 148.* And it ought to be read in full County in every shire, four times yearly, and all the breakers thereof inquired of there; and further inquired of, and punished by Fines, Imprisonments, &c. by Justices in Eyre, two of every Counties chusing, whereby 12. or 14. may serve in circuits throughout *England, and Wales*, divided into six or seven Provinces, as twelve did serve for all *England* divided into six. See, and compare *Rast. abridg. fol. 65. and Reg. Hoveden parte poster. Anal. fol. 548.* The not reading, and publishing of *Mag. Char.* is the default partly of Sheriffs not requiring it; partly of the Clerk of the Crown, &c. not sending it to them under Seal. All defaults of Sheriffs, &c. are inquirable, and punishable by Justices of

Peace; as Lamb. Fitz. H. Crompt. Dall
&c. affirm at large.

5. Observe the people's choice resumed by this Statute, when the King presumed to make Justices of P. and under that Specious Title to empower them, first to affront, and by degrees to suppress, and at last to extinguish the larger power of Conservatoours. A Prerogative imposture devised by Lawyers for their own advantage, when they got the King to confer this creation of Justices of Peace, upon his Chancellours, and Keepers, to whom their creatures became obliged to subject all England to Westminster, contrary to Mag. Char.

5. Justices in Eyre are discontinued long since, and not onely for that they were interrupted, and wearied out by the Prerogative Judges, and Courts at Westminster by their Certioraries, Corpus cum causa, Errours, and other Writs (as the Lord Coke confesserh in his Exposition of the Stat. called A:t. super Chart. fol. 540.) but also for that Justices of Assize, Justices of Peace, and all Oyers, and Terminers by their Commissions, and Magistrates of Corporations by their Charters, were enabled & sworn to hear and determine all Trespasses, Contempts, Oppressions, and Misdemeanours, according to the Laws and customs of England, as appeareth in, and by all Commissions of the Peace, Oyers, Terminers, and Charters that have Oyer and Terminer, and by the Stat. made for the first

first institution of Justices of Peace, in the 18th year of Ed. 3^d. in which year was also ordained the Oath of all Judges, and Justices of Oyer and Terminer for the due execution of justice, without sale, delay or denial, which the thrice reverend Judge *Anthony Fitz Herb.* admonisheth them that consider it, and their duty to God, and their Countrey, not to break upon any conditions, *Nat. breuium* fol. 240. d. but now the common practice is otherwise.

6. Any that Will, ought to have Commissions of Oyer and Terminer for all Extortions, Oppressions, and Misdemeanours of Sheriffs, Undersheriffs, Escheatours, Bayliffs, Clerks, and all other Officers: See *Cromp. Just. Peace*, fol. 51. 8. *Fitz. H. Nat. br.* fol. 112. d. And Justices of Peace, and all other Commissioners that ought by their Commissions, and Oaths, to punish all such offences, &c do not, are no less than perjurers, and the greatest malefactours of all other, themselves. Nor can any

6. Justices of Peace ought not to be seduced to transgress M. C. and the Petition of Right, by any Stat. that contradicts them, nor to lose the publike interest for any Prerogative usurpation, but to re-assume their authority from People, to act as conservatours of the ancient peace, and profit of the Commonwealth: as in cases of Remitter, men stand to their best Title.

Writs

Writs of *Certiorari*, *Corpus cum causa*, *Error*, *Supersedeas*, or putting out of Commission, excuse or supercede them to finish their Judgements, and Executions in all such causes brought in question before them: See and compare the Stat. of 2. *Ed.* 3. and 14. *Ed.* 3. 14. and the 20. *Ed.* 3. 1. and the *Procedendo* thereupon in *Fitz. H. Na. Bre.* fol. 240. where it is said; *They shall proceed to justice according to law, notwithstanding any Letter, Commandment, Prohibition, Writ, Privy-Seal, or Great Seal to the contrary.* And if any such things be granted by the King, or any of his Judges, or Courts, such a *Procedendo* ought to be granted by the Keeper of the Broad Seal to countermand them; and to command justice, judgement, and execution to be done, even against the King, much rather against Judges, who under colour of Authority and justice, delude and wrong Kings, and People: For (saith the L. Coke upon the Stat. of *Marlebridge*, cap. 5.) *there is no greater injustice, than when under colour of Justice, men are injured: but writs of Certiorari Corpus cum causa, and Error, ought to be had, and granted,*
upon

upon proof of malice, partiality, injustice, or error in matter, committed by any inferior Court, but not upon suggestions, or bare suppositions, as is used: See and compare therefore all the said Statutes in this case, together with M. *Dearhams* Manuel, p. 25. Nor by any Superior Judges or Courts that are parties, or concerned in the cause. see the *L. Coke* upon *Art. super Chart.*

7. The granting of Writs, or Commissions to do injustice by, or to stay, or delay justice, where it is done, or doing; or to deny Writs or Commissions to cause or further justice to be done, (which always was, and yet is the practice of the Prerogative Judges at *Westminster*; not onely to cross, & interrupt Commissioners legally chosen in, and by their Counties, (as Justices in Eyre were) and such, and all Justices of Peace, and Officers of Trust, and concernment in, and to the Common-wealth, still ought to be) is the worst of all Oppressions, and a general destruction of Law and People,

7. These oppressions are daily committed by mercenary lawyers, by colour of Statutes of their own devices against Mag. C. which Stat. ought to be repealed, & the longer execution thereof resisted by all, or any necessary means.

com-

committed by colour of an usurped Authority, as saith the L. Coke upon the Statute of *Marlebr.* cap. 5. To prevent which (his Lordship further saith) It is lawful for the People to take up Arms, as for Inferiour Judges to commit their Superiors and that before any Verdict, or Judgement, because they worthily loose the benefit of Law, who intend to subvert it; and Subordinate authority is more to be obeyed, and assisted in the execution of Justice, than the Supreamest to be indured to obstruct it. All this, and more, is to be read in effect, in the L. Cokes Exposition upon *Art. super Char.* and the Stat. of *Marlebr.* which if executed by Justices of Peace in their Counties, and Magistrates in their Corporations, would soon regulate abuses, settle Peace, and much inable the State, and Common-wealth to pay publike debts, and relieve distressed Soldiers: For it is Law it self, as virtue it selfe, invirtuateth, dignifieth, and authorizeth her true servants to execute her precepts; and confoundeth, expulseth, and turneth out of her service all her unjust Stewards, and underminers: As *Jacob*, and *David*

were

were preferred before their elder brethren; and Saul, Jeroboam, &c. were confounded by, and for their own Apostacies.

8. Under the Titles of Trespases, Contempts, Oppressions, Misdemeanours, are comprehended all breaches of *Magna Char.* and all Offences against all Statutes in force, and concurrent with *Mag. Char.* and the *Petition of Right*, which all Justices of Peace, and Magistrates in their several jurisdictions, are Authorized, and sworn to hear and determine, without fear, favour or respect of persons. How then to be excused, or delayed by any Writ, or command of any Superiour? And how are the Judges of the *Kings-Bench* (whereof the cheif was the Kings Deputy by Writ) now Superiour, or equal to any other Judges, or Justices? If that maxim be true *moritur Actio cum Persona*? But the Office of a Deputy dyeth with its Master, as a Letter or Warrant of Attorney, with its maker:

ker: the *King-Bench* may be spared as well as his person? And all causes in this Common-wealth, be called Common-Pleas, and tryed by the Common Law of the land, and Verdicts of common people, and Free-holders of every Countrey, and Corporation, before the Free Judges, & Magistrates freely chosen by the said Common and Free-People, to justifie them at home, and not before mercenary makers, expounders, and sellers of all Lawes, and Liberties, as they please at *Westminster*. And doth not the said Stat. of 28. *Ed. 3.* warrant Justices of Peace, or any two of them (whereof one to be of the *Quorum*) to call and keep Sessions as often as they see need to do justice to their Countrey? See the Stat. at large, and *Crompt. 1. P.* fol. 112. and *F. H. 1. P.* fol. 10.

Whereunto adde, That as *Magna Charta* compriseth all the Law of this land agreed upon by Kings and People, and would be read and published in English (as aforesaid) for the better understanding thereof by all English People, to the end, that the ignorance of their Law, should be no excuse for any of them to trans-

transgress it : So how needless it is, if not pestiferous, to have this Common-Law reduced to a private mercinarie Trade, or particular science exceeding the seven Liberal, by such professors thereof, as have, and do endeavour to disguise, mask, and hide it from all but themselves, in base French, and Latine intricacies and obscurities, to the end to make all persons offenders thereof, and none excusable, but by their resolutions of their own Riddles, which are alwaies answerable to their Fees (be the cause right or wrong) whereby the cure of Law becometh an incurable disease, until that superfluous mercinary profession be abolished, or regulated, so as the best and soundest Lawyers may be used in Parliaments (as in former times) to sit upon Wol-sacks, to answer to what that high Court shall be pleased to aske them, and not as members of that Court, to make Lawes, and Oaths for others, which they never observe themselves but for their own gain, and the peoples damage : To which end, they alwaies preambule their inventions against *Mag. Char.* with titles of Acts for the
good

good of the people, when in their subsequents they hurt all but themselves; As (passing by all former) their last Acts for the enlarging of poor prisoners for debt, sufficiently witness; whereby neither creditor nor debtour are any way relieved, but both further entangled, and Lawyers Fees more procreated; *Vident experientia. Conclusivè*; That there can be no firm peace, or end of Wars, till there be an end of mercinarie professors of Law, less needful, or useful for Parliaments or People, than Bishops, or such as might be used there, or elsewhere, for saying, or reading prayers; while these neither pray, preach, nor study, but their own lucrative magnificence every where upon the peoples purses.

Adde lastly; Such Justices of Peace as will not execute *Mag. Char.* with its confirmations, and the *Petition of Right*, and desert, and wave the execution, and practice of contradictory Statutes, (for zeal to their Creatours, or fear to be unmade by those that made them) ought to be deserted and waved by all good Patriots of their countrey, as excommunicated

nicated persons, and breakers of *M. Cha.* And such onely as will execute *Mag. Ch. &c.* ought to be confirmed by the choise of the *People* in their Counties respectively, whereby they may act as the ancient Conservatours of the Peace did by the Common Law of *England* before *Mag. Char.* and since, which was, to conserve the Peace of *England* by all necessary means, word, or sword; unlimited by Prerogative Statutes devised by mercenary Lawyers, to steal from the People their birth-right Authority in the name of the King, unto themselves, to sell, delay, and deny it at their pleasures; which to do, is apparently contrary, not onely to *Mag. Char.* and the Common Laws of *England*, and also to common reason, but chiefly to the divine Providence of God: for neither Law, Reason, nor Divine justice, would ordain a man to conserve the publike peace of Gods people (which peace, as they, is his own) without giving that man an unlimitable power, by which he may execute his Office, and without which he cannot.





THE
PEACE of JUSTICE,

O R,

The Authoritie of a
JUSTICE of PEACE:
Anciently established amongst
the first Principles of the funda-
mental Laws of *England*, un-
der the the names of
Conservators, &c.

Continually Confirmed by *Parliaments*
from time to time; but eftsoon over-born by
corrupt superiorities, till now restored to its
pristine Libertie, by *The Keepers of the Libertie*
of *ENGLAND* by Authoritie of *Parliament*: and lately set forth by their several
Commissions under the great Seal of *England*,
directed to the Chieftains of the several
Counties, Cities, and Liberties thereof:

One of which, being for the Liberties of *West-*
minster and *S. Martins le Grand London*, is
herein Englished, Interposed, and Post-scribed
with some reasons extracted out of Statutes,
and other Authours, for the better under-
standing, and satisfaction of all whom it may
concern.

By JOHN JONES, of the *Neyath*,
in Com. *Brecon* Gent.

Nulla salus Bello, Pacem te poscimus omnes.

London, Printed by *W. Bentley*, for *W. Shears*
at the Bible in *S. Pauls Church-yard*. 1650.

THE
PEACE OF JUSTICE

The Author of a
History of the Peace of
Amity established amongst

Continually Continued, by James
Guthrie, Esq. in two Volumes.
The first Volume contains the
History of the Peace of Amity
from the Year 1648 to 1713.
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The Author has been assisted
by several learned Men, and
has consulted the original
Manuscripts, and the
most authentic Histories.
The Author has also been
assisted by several learned
Men, and has consulted the
original Manuscripts, and the
most authentic Histories.

Printed by J. B. Smith, at the
Printers Office, in the Strand.
1763.



To the
HONOURABLE
COLLONEL
THOMAS PRIDE,
One of the *Justices* of the
Peace for the Countie of Mid-
dlesex, Liberties of *West-*
minster, and *S. Martins*
le Grand Lond. &c.

S I R,



Having dedicated
my former Trea-
tise, intitled,
Judges Judged
out of their own mouthes,
to all the people of England
universally; now in respect of
the integritie I have found

A 3 in

The Epistle

in your self, in behalf of
them all, to cause that to pass
the Press, for the view and
good of all. I thought my self
bound in dutie to devote this
Tractate of Peace to your
self that are one of the Ju-
stices of Peace, named in the
Commission which I have
here chosen to English, and
to Comment upon, to my best
abilitie, in so short a time as I
had since it came to my
hands, to dispatch it before
your departure to your Ren-
deZvous.

Sir, I beseech you be plea-
sed to give me leave to pass
it under your name, & vouch-
safe to accept so simple a gift,
of an heartie giver: The
Subject

Dedicatorie.

subject concerneth both Peace and War, and cannot be safely protected from the Enemies of either, (whereof Peace hath too many) but by a man eminent for his power, and interest in both, with this difference observed by Cræsus king of Lidea, That in times of Peace, Sons buried their Fathers, but in times of War, Fathers buried their Sons. And so much precedence to be given to Peace before War, as to Mercie before Justice, neither of which can subsist, one without the other, but well consist both together, as the God of Peace, and Lord of Hosts, are but the self same

The Epist. &c.

Deitie, united in the Spirit
of God, which wheresoever it
is, there is Libertie, 2. Cor.
3. 17. Which Libertie God
grant England,


So wisheth and prayeth,

Your daily Oratour,

JOHN JONES.

The

The Commission.


 he Keepers of the Liberty of
ENGLAND, by Au-
 thoritie of PARLIAMENT,
 To William Lenthall Speaker
 of the Parliament; Thomas Lord Fairfax,
 Lord General of the Army raised for
 the Parliament; John Bradshaw, Lord
 President of the Council; Boulstred
 Whitlock, Richard Keeble, John Lisle,
 Lords Commissioners of the great
 Seal of **ENGLAND**; Robert
 Earl of Warwick; Charles Earl of No-
 tingham; William Earl of Salisbury; Ba-
 sil Earl of Denbigh; William Lord
 Gray of Wark; William Viscount
 Monson; Henry Vane the elder, Knight;
 Henry Rolles, Chief Justice assigned
 to hold Pleas before us in the upper
 Bench; Oliver S. John, Chief Justice of
 the Common Pleas; John Wild, Chief
 Baron of the publick Exchequer; Ed-
 ward Prideaux, Attorney general of the
 Common wealth; Edward Powel Knight
 and Baronet; Humphrey Foster Baro-
 net; John Danvers Knight; Henry Vane
 the younger, Knight; John Hippsley
 Knight; John Thorowgood Knight;
 Henry Holcroft Knight; Humphrey Ed-
 wards; Laurence Whimaker; John Brown;
 Henry Scobel, Clerk of the Parliament;

Edward Birkhead, George Manley, Roger Hill, John Trenchard, Michael Oldworth, John Moor, Thomas Latham, John Hooker, Thomas Pride, Thomas Herbert, Thomas Falconbridge, John Helyn, Edward Carter, Silvanus Taylor, John Humphreys, William Powel, Arthur Squib the younger, and Samuel Gooken Esquires.

Know you, that we have assigned you, and every of you, together, and apart, Justices, for Conservation of the Peace within the Libertie of the late Dean and Chapter of the Collegiate Church of S. Peter Westminster, for the Title, Burrough, and Town of Westminster, in the Countie of Middlesex: And for S. Martins le Grand London. And to keep, and cause to be kept, all Ordinances and Statutes made, and provided for the good of the Publick Peace, and for the Conservation thereof, and for the quiet rule and government of the People in all and singular the Articles therein contained, within the said Liberties, as well within Libertie as without, according to the Force, Form, and effect of the same.

And to Chastice and punish all and singular Delinquents against the form of the said Ordinances, or Statutes, or any of them, within the said Liberties, as according to the form of the said Ordinances, or Statutes is ordained to be done. And to cause to come before you, or any of you, all those which dip, or shall threaten any of the people to hurt them in their bodies, or to burn their houses, to find sufficient

Sufficient securitie of the Peace, or Good-behaviour towards all men; and if they refuse to find such securitie, then to cause them to be safely kept in Prison, until they find such said securitie.

Thus far this commission extend- *Interp.*
eth to the execution of such Ordinances and Statutes, as onely concern the Peace, and Good-behaviour, of which there are very many, and some of them executable by one Justice, and some not; but in case of necessity, for the speedie prevention, or suppression of unlawfull Assemblies, forceable Entries, Riots, and Outrages, and for the correction of Ale-sellers, Gamesters, Profaners of the Lords day, common Swearers, Drunkards, &c. one Justice next at hand is soonest had, and most bound, required, and authorized by the words, *you or any of you*, in this Commission, to do that duty: And also by the words of the Statute, 34. Ed. 3. 1. upon which this Article is grounded, to bind to the Peace, or Good-behaviour any that shall threaten violence to others, by sword fire, or other means: see *Crom. J. P.* fol. 128. And thus far, and further

did

did extend the authoritie of *Conservatoours* of the Peace before *Mag. Chart.* or any Laws were written in these cases, the fulness of which authoritie was supplied (in what it wanted , by the expresse words of such a large Commission as this,) by implication of a few words , in a short one , as you may read in the beginning of *Lamb. J. P.* briefly importing , that no power or authoritie of law , ought to be wanting in any Justice of Peace, to perform the duty of his office, for it is Law it self, that no man shall want the means, to perform that which the law requirerh to be performed by him : So that if Peace could not be maintained without War , a *Conservatoour* of the Peace, had the power of his Countie, to inable him that way, and so a Justice of Peace hath still. And *Edward* the 3^d, that first changed the name of *Conservatoours* to *Justices*, and assumed both the naming and chusing of such officers from the people (who formerly chose them, and all other officers of trust in their self Counties, in every Shire, and Kings onely granted Commissions to such as were to chosen , and altered those

those Commissions at the peoples request, whensoever they pleased to alter their officers;) did make his choice of such Justices, (although to his own ends, yet very wisely,) of such persons, as were best affected by the people for their known integrities amongst them, and most resolute and able to keep under his Laws, and Rule, those Lords and former Superiours both of Law and Justice, whom he had subjected more by his sword and policie, than right at that time; and therefore joined these Justices in Commission with Lords and Judges, that they might be their equals in government so long as they behaved themselves well, and their superiours by the same power to govern and chastise them, whensoever they misbehaved themselves: for Lords, Judges, and Justices of all sorts may, and too often do transgress the laws, as other men, and so of equals or Superiours, become subject to the justice of their associates in Commission (reputed otherways their inferiours;) being transfigured from Superiour Judges of the Law, to Inferiour Trespassers against it, Indictable by their
Peers,

Peers, of the Countie, wherein they offend, and punishable in the Court, where their Indictments are taken, as you may read in the Stat. 2. Ed. 3. 8. 18. Ed. 3. 3. and 20. Ed. 3. 1. abridged by *Rast.* fol. 227. which (though rarely practised) can be no more strange to Lawyers, than when for false judgements 44 Judges, were hanged in one year, whose names and causes in brief, you may find in *Horns Mirror of Justice*, P. 239. 240. 241. and 242. Nor for Divines, than when an Arch-Angel, was by verdict of his Peers, and equals, the rest of the Arch-Angels, and judgement both of them, and of the Angels that were his inferiours, doomed from Heaven to hell, from perpetual joy, to everlasting torment; and transformed from an Angel of light, to a Prince of darkness. Nor need it be a wonder to any that know the lawfull descent of inheritance, from the elder brother, that dies without issue of his bodie, to his next living brother; for what is a Judge that ceases to do justice, or doth injustice without regard of his oath or conscience, but a dead man in his judgement? whose judicature thereupon descends, and spirit

spirit passes (as *Sauls* to *David*) to the next chosen vessell of justice, that neither will nor can but judge himself to death, when detected to himself, to be thereof worthy, as *David* did when discovered by *Nathan*, how he had trespassed against *Uriah*. Well therefore did *Edward* the 3^d call them Justices in *abstracto*, whom he assigned to do justice in *Concreto*, & not Justicers or Judges, as *Glandvil* saith, their ancient name was Justices, to mind them not onely to do, but to be justice it self to all men without respect of persons, otherwise than to value them for their Crimes, and those so much the greater by how much the Actors are, and would be so esteemed. Justices of Peace therefore sworn and authorized to be Justices indeed, and to proceed according to the force, form, and effect, of the Ordinances, Statutes, Laws, and customs of *England*, so far as this Commission declareth they are, ought to be so sincere and severe in the execution thereof, as to perjure themselves for no man.

We have also assigned you, and Com-
every two, or more of you, (whereof miss.
we

We Will William Lenthall, Thomas Lord Fairfax, John Bradshaw, Boulstred Whitlock, Richard Keeble, John Lisle, Robert Earl of Warwick, Charles Earl of Nottingham, William Earl of Salisbury, Basil Earl of Denbigh, William Lord Gray of Wark, William Viscount Monson, Henry Vane the elder, Henry Rolle, Oliver S. John, John Wild, Edmund Piddaux, Edward Powel, Humphrey Foster, John Danvers, Henry Vane the younger, John Hippeley, John Thorowgood, Henry Holcroft, Humphrey Edwards, Lawrence Whittaker, John Brown, Edward Birkhead, George Mansly, Roger Hill, John Trenchard, Michael Oldsworth, John More, Thomas Latham, John Hooker, Thomas Pride, Thomas Herbert, Thomas Falconbridge, and John Helyn, to be one,) Justices, to inquire by the oaths of honest and lawfull men, of the said liberties, by whom the truth of the matter may be known, of all, and all manner of Felonies, Witchcraftes, Inchantments, Sorcellages, Art-magick, Trespasses, Foie-stallers, Regrators, Ingrossers, and Extortions whatsoever. And of all and singular other Malefactorious, offences, of which Justices of Peace may, or ought lawfully to inquire, by whomsoever, and howsoever done, or committed, or which hereafter shall happen to be done, or attempted within the said Liberties. And also of all them which within the said Liberties in Conventicles against the Peace, in perturbation of the People, or by force of Arms, have gone,

persons, or hereafter shall presume to go, or ride: And also of all such who there, to the threatening of the Nation, or to kill them, have laid in wait, or hereafter shall presume so to do. And also of all Hostlers, and other persons whatsoever, which in abuse of weights and measures, or in selling victuals contrary to the forms of the Ordinances, or Statutes, or any of them, thereof for the common utilitie of England, and the people of the same, made, have offended, or so attempted, or hereafter shall presume so to offend, or attempt, within the said Liberties. And also whomsoever Bayliffs, Stewards, Constables, keepers of Goals, and other Officers, within the execution of their Offices, concerning the premises, or any of them, have unduly behaved themselves, or hereafter shall presume so to do, or have been fearful, remiss, or negligent, or hereafter shall happen so to be within the said Liberties. And of all and singular Articles, circumstances, and other things whatsoever, by whomsoever, and howsoever, within the said Liberties done, or committed, or which hereafter shall be done, or attempted in what manner soever, concerning the truth of the premises, or any of them. And to behold all Instruments whatsoever is taken, or to be taken before you, or any of you, or before any of the late Justices in the said Liberties taken, and not yet deter.

determined. And to make and con-
 tinue all Proces thereof, against all
 manner of persons so Indicted, or
 which before you shall happen to be
 so Indicted, untill they be taken,
 yfild themselves, or be Outlawed.
 And to hear and determine all and
 singular Felonies, Witch-craftes,
 Sorceries, Arts magick, Trespasses
 Forfeittings, Regratings, Ingros-
 sings, Indictments aforesaid, And
 all and singular other the premises,
 according to the Laws and Statutes
 of England, as in such cases was used
 to be done, or ought to be heard and
 determined. And to chastise and pu-
 nish all the said Delinquents, and
 every of them, for their offences re-
 spectively, by Fines, Ransoms, Im-
 merciaments, Forfeitures, and other
 means, as according to the said Laws
 and Customs of England, or the forms
 of the said Ordinances, or Statutes
 were, or ought to be done. Provided
 always, that if any Case of difficul-
 tie upon any Determination of any
 the premises before you, shall happen
 to arise, then to give iudgement, un-
 less it be in the presence of one of the
 Iustices of one Bench, or other, or
 one of the Iustices of Assize assign-
 ed in the said Countie, you shall for-
 bear to proceed. And therefore we
 Command you and every of you, that
 to keep the Beare, Ordinances, and
 Statutes, and all and singular other
 the premises, diligently to attend,
 and at such certain days, and places,
 which you, or any such said two, or
 more

more of you shall appoint as aforesaid, you shall make inquiries upon the premises. And all and singular the premises you shall hear and determine, and the same you shall do and fulfill in form aforesaid, being to do therein what appertaineth to Justice, according to the Law and Custom of England; Saving unto us our Admiralties, and all other things unto us in this behalf belonging. We command therefore by the tenor of these presents that you, or any such said two, or more of you, as aforesaid, shall make known the same to the Bayliffs of the said Liberties, that then they shall cause to come before you, or any such said two, or more of you, as aforesaid, such and so many honest and lawfull men of the said Liberties, as well within Libertie as without, by whom the truth of the matter in the premises may be best known and enquired. Lastly, we have assigned the said John Bradshaw Keeper of the Rolls of the Peace within the said Liberties: And that therefore thou at the times, and places aforesaid, cause to come before thee, and thy fellows, the Writs, Precepts, Processes, and Indictments aforesaid; that the same may be perused, & duly, and finally determined as is aforesaid. In witness whereof, We have caused these our Letters to be made Patent.

Witness Our selves at Westminster,
the 15 Day of February
in the Year 1649.

Here

*Post-
script.*

Here are some particuler Trespassers & Trespasses, instanced with an indefinite conclusion of all others, which Justices of Peace may or ought to enquire, by whomsoever, or howsoever committed or to be committed. Now what act of injustice can be but is a trespass? What Trespasser can be, but is included in the word *whomsoever*? What manner of Trespass can be, but is comprehended in the word *howsoever*? And what Justice of Peace can be, and be sworn as aforesaid, to execute this Commission, and the Ordinances, and Statutes therein mentioned, according to the force, form, and effect thereof, that can omit to enquire of, and punish all Trespassers and Trespasses, within his jurisdiction accordingly, without committing that damnable sin of Perjury, prohibited by the second Commandment? It is true, all of them live not always within their jurisdiction, and some that do, are often employed upon other publick services, on the like Oath, and some may be sick, &c. so that many may be often lawfully wanting in this; are not therefore any two or more, of so many named in this Commission

Commission sufficiently authorized, and strictly enjoined by it, not onely to enquire, but also to hear and determine, all and singular Trespases aforesaid? And doth not the same Statute, that appointed them quarter Sessions, also allow them as many Sessions as they shall see needfull to hold, to perform their duties? Then what *Remora* can stay, or *Lucifer* fright themall, so that not so many as two of them be ready at all times to serve the Common-wealth in their office, and to discharge themselves really in that behalf? Me thinks I hear some answer; Writs, and Commands from Higher powers: I say, this *Dilemma* is cleared before in *Lucifers* own case: Yea, but (say they) this practise holdeth; and if not obeyed, Justices of Peace, like servants, are by their Masters, the Lords Keepers, or Chancellours, turned out of their Commission. I confess it is too often true; but are not they mad Masters that turn their servants out of their service for doing it? and are not *Bride-wels*, and *Bedlam* as fit for mad Masters, as for unruly Servants? are not the Laws powerfull, and plenti-
full

full for the ordering of Masters, as well as servants? (Two Justices of Peace in my native County, *Brecon*, offering to break the peace with their daggers drawn one against the other, in presence of a Constable (that was servant to the one, and more inferiour to both, than any Justice can be to any Lord Chancellour) who arrested them with his sword, till they gave him bonds to keep the peace, which was the duty of their office, and his, and returned their bonds to Sir *John Crook* then Judge of that Circuit, who commended the Constable, and told the Justices (then sitting with him upon the Assizes) they ought to be Indicted of Perjurie.) If higher Justices transgress justice, is not their case the same? It is want of that worth therefore that becometh this Authoritie, and not a Writ forreptiously obtained, or granted *ex improviso*, (which cannot determine Justice, although it may oppose it, while Justice in the interim may have the better opportunitie to determine Injustice) sometimes maketh some Justice of Peace desist in the due execution of his Comission, and incur

incur Perjurie, as aforesaid. For suppose a Catch-pol, or a Goaler be indicted, imprisoned, and arraigned for Extortion in a Session of Peace, and procureth a *Certiorari*, *Habeas Corpus*, or *Corpus cum causa*, to remove himself, and his cause to one of either Benches, or a *superseas* to proceed any further therein, or in the Commission of the Peace at all; it is true, that those Courts, and others, may grant such Writs, and others, and too often do, upon meer suggestions of injustice done, or like to be done, or some partiallity shewed by some Justice of Peace, &c. to either parties; but (say the Statutes) 25. Ed. 3. cap. 4. Stat. 5. and 37. Ed. 3. cap. 18. and 38. Ed. 3. cap. 9. and 42. Ed. 3. cap. 3. and 17. Rich. 2. cap. 6. the sum of all which you may see in *Rast. Abridgement tit. Accusation*, fol. 5. Such suggestions ought not to be received, but the Suggestours punished, and the Induced righted; so that the granters of such Writs ought to have good causes for the granting thereof proved, before they grant them; or else they incur so many Perjuries, as reaches of the said Laws, and thereupon

upon ought to be Indicted, and judged by Justices of Peace of that limit wherein the offence is committed, who ought not to desist in their proceedings for any such said Writs (as hath been formerly shewed) unless they commit wilfull Perjury in so obeying, as the granters do in so granting, who ought not to grant any such Writs, but for the causes set down for every writ in and by *Fitz. N. B.* and the *Register*, in their several titles, upon due proof made of those causes before their grants, (as afore said) and a *causam significari* ought to be sent to a Justice of Peace for himself to certify why he obeyed not the *Certiorari* before any other proceeding (than a *Plures*) he had against him; whereupon, if he certify any lawfull cause for him to proceed, as that he knoweth, or findeth by due proof, the justice and merit of the cause depending before him, and that he is authorized and sworn, (as afore said) or findeth the Writ to differ from the Record; then whatsoever power proceedeth against him, without proof of injustice done, or partiality shewed by him in that cause, sheweth it self parti-

al and unjust in so proceeding, and fit to be overpowered by the strength of the Countrey, if otherwise it will not. And whatsoever lawfull Commission such Injustice shall offer to supercede, Law and Justice warrant to be executed, any such *Superfedeas* notwithstanding, as the Statutes before cited declare at large. Therefore let me proceed in the case supposed; An extorting Bayliff indicted, imprisoned and arraigned, procures a Writ to remove or stay his cause; the Justices may and ought to proceed to judgement and execution, and their certificate of the cause of their non admission of such Writs, ought to be a sufficient satisfaction to the Granters, for thereby the Offendour hath that justice he ought to have, by the hands of the said Justices, who onely ought to give it him, and are sworn and authorized so to do, (as aforesaid;) and the Granters who are sworn not to delay, or hinder it, have their lawfull and timely prevention from so great a mischief, as (if they proceed further, or otherwise upon such Writs,) is no less than manifest Injustice, and wilfull Perjury, both in-

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quirable

quirable, and punishable by Justices of Peace within their limits, by this Commission, and the Statutes before mentioned; and the Statutes of 5. Eliz. 9. 14. Eliz. 11. 27. Eliz. 11. and 28. Eliz. 5. See Cro. I. P. fol. 17. and 116. And if indicted, the Justices of the Peace before whom such indictments happen to be, have full power to issue their Writs, viz. *vi. re facias* to the Sheriff of the County, or Bayliff of the Liberry, which if he return with a *habet*, then *distringas ad infinitum*; if with a *nihil habet*, then a *Capias*, which if he return with a *non est inventus*, then an *Exigent*, and *ut legat.* to arrest and imprison the indicted wheresoever found. And then a *Habeas Corpus* to bring him thence to his tryal where he was indicted, and the offence committed. And then if any evidence be wanting to convict or attain, a *Certiorari* to fetch any Record, or the tenor, which may conduce thereunto out of any Court whatsoever. And thereupon in *Alias*, *Plures*, and *Attachement &c.* So that it is not the supposed superiority of any Court, must hinder justice to be done by an Inferiour, but the justice it self, and the

the worthiness and publick concernment, and necessity thereof that preferreth the Judge that is just, and of a competent jurisdiction in Law and reason, to do it before him that neglects it in his place whatsoever. As *David* before *Saul*, and the Keepers of the Liberty of *England* before the Destroyers of it. Howsoever it was otherwise conceived and practised, when Privy Councillors, Judges of *Star-chamber*, &c. would permit none to be made, or continue their fellow Justices of the Peace, but such as wore their blue-coats upon *St. George* his day, and became their servile fellow Perjurers all the year after, ready to do whatsoever they willed by Word, Writ, or Command whatsoever. But some suppose that in reason the Courts at *Westminster*, vulgarly called the *Higher*, have Prerogatives, and Priviledges above other Courts, whereby their Judges, and their proceedings ought not to be looked into by any Court of judicature, commonly accounted their *Inferiour*. This supposition is sufficiently answered before, but I further ask, can any man be so mad, as to suppose that any Court of justice

can or ought to have any prerogative, or priviledge to commit any Iniustice, or any Cessour, or Failer of justice in it self? or to cause any such defaults to be committed by any other Court? and that the Supreme power of *England* consisting in the Free-people thereof, universally concerned therein, can want the Prerogative and priviledge to punish, or cause to be punished any such Court, and the Iudges thereof, though never so highly reputed, but themselves, and their creatures; and to cause the Laws and Statutes of *England* to be so construed, and practised, that there shall be no Iniustice, Cessour, or Failer of justice used therein? Do not the Statutes of 2. *Ed.* 3. cap. 8. and 20. *Ed.* 3. cap. 1. Sufficiently warrant, and absolutely command that it shall be so? and is not the granting of such Writs without proof of Iniustice committed, or partiality shewed by the Iudge that hath the cause depending before him, clearly Iniustice, Cessour, and Failer of Iustice? and so fully implied in and by the said Statutes of 25 *Ed.* 3. cap. 4. 37. *Ed.* 3. cap. 18. 38. *Ed.* 3. cap. 9. *ch.*

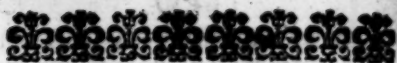
And is it not wilfull Perjurie, by the Oath made for Iudges, 18. Ed. 3. Stat. 3? Do not such Writs so granted, give colour of excuse to some Iustices to whom they are directed, (if they be no wiser than the granters) to Perjure themselves for company in committing Injustice by cefsing, or deferring to do justice, contrary to the said Statutes, and the duty of their office by their Commission? Yea, but the Iudges of those higher Courts are more learned in the Laws, and therefore know how to do Iustice better, and sooner than others, (and this seemeth to be implied in the *proviso* specified in this Commission, advising the Iustices of Peace in cases of difficulty to be advised by the Iudges &c.) and Attorneys and Bayliffs that attend them, ought to have more priviledge to be justified by them than others? Yea, but doth not experience tell us, that some of them are no more learned in Law, or otherwise, than other long roabed tell-clocks; and that they advised King CHARLES who acted nothing without them in any of his Monopolies) to become as Perjurious as themselves, but not

equal in cumpunction to that King and Judge that contrived the Clock and Jacks at *westminster* (lately transformed from gowned Judges, to Souldier-like Halberteers) to mind them when it strikes, to measure their howers by their honesty, and that by their Oaths, &c. And that Indictments removed before them 20. years past, remain amongst their Records, and so are like to continue in a perpetual discontinuance? And do not Scriptures tell us, that God found it necessary that the sons of *Eli* should have other correctours than their father, and so must the Supreme power aforesaid, have other Chastisers of Attorneys, Bayliffs, and Goalers, than the Iudges at *westminster*: or else it is to be feared, that God himself, who is the Supremest of all Iudges, and Power, and even Justice it self, will proceed to judgement against this Nation, in this cause in suit already in his highest Consistory, where needs no *Certiorari*, nor can be *Supersedeas* admitted, but a *Corpus cum causa* most certainly granted, to bring every Prisoner to the Bar; where, whom he onely justifieth by his own onely righteousness.

ousness, and mercy, he receiveth into his endless glory, and rewardeth according to their imputed merits, with a bountifull, beautifull, everlasting inheritance; whereof, let all such as sit upon transitory Tribunals, endeavour (by way of Justice done amongst us without cessation, fail, sale, delay or denial, but mixed with mercy, so that Peter may have time to hear the Cock crow) to be happy partakers: Or else run Justice, run through the Laws Subversion to thine own Confusion, with a garland of Delusion; and mercy be unto them that desire to practise it.

A M E N.

F I N I S.



Post-script.

Would it not be an acceptable service to God, if the *Iustices* of *Peace* of the Countie of *Middlesex* would call a speedie Sessions, and therein inquire, hear, and determine according to the Law of God and *Magn. Charta*, &c. and this Commission, (theirs being the like) who are most guiltie of the Gentlemans bloud that was most wilfully murdered, by the six Catch-pols, near the *Ducking-ponds* in *Islington* Fields, on the sixth of *April*, 1650. Whether the

the Judges that granted a Writ to Arrest for Debt? or the Murtherers that executed it with such barbarous butcherie? or the perjured Jurie that saved them contrarie to two Verdicts? or the Judges that so advised them, contrarie to all Law, but such a bloudie one as their Predecessours lately contrived, to justify such actions.

Can it be any difficultie for *Justices of Peace*, to find Law enough, both Divine and humane, to hang all the said Actors? shall any Judge of either *Bench*, &c. be thought fit or indifferent to advise in this matter?

FINIS.

the judges themselves
While so small the
on the other hand
accord it with such
not a purchaser or the
justified in the given
opinion as to the
of the judges that to
led them, contrary to all
law, but such a
one as their predecessors
likely to be, a
such a

Can it be any
for the sake of
the law, to
and to
all the law
any judge of either
of the judges in
to be in this



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THE NEW
Returns Brevium, c+

Or the Law returned from
WESTMINSTER

And restored in briefto its
Native, Antient, and Proper Ha-
bitatio Language, Power, Puritie,
Integrity, Cheapness, Brief-
ness, Plainness.

Whereunto is added the Pe-
tition of Right, granted by Par-
liament in the third yeare of
King Charles the first.

*And confirmed by the last
Parliament.*

Written by *John Jones* of the
Neyath in Com. Brecon Gent.

*He hath shewed thee O Man, what is good.
And what doth the Lord require of thee,
but to doe justly, and to love mercy, and to
walk humbly with thy God.*

London, printed for *Tho : Mat-
thewes* at the Cock in *St Pauls*
Churchyard. 1653.

THE NEW
RETURNED PRISONERS

Or the Law as it stands from

WESTMINSTER

And returned in his to his

And returned in his to his

And returned in his to his

And returned in his to his

And returned in his to his

And returned in his to his

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T O

The right Honorable

Oliver Cromwell

L O R D Lieutenant of

IRELAND,

&c.

Heroick Sir !

Long and earnest
have been the de-
sires and prayers
of many thousands of
faithfull hearts for your
safe and happy return

A 3 into

The Epistle

into *England*, which
God for his own glory,
your honour, and our
comforts, hath now
opportunately brought to
passe with such testi-
monies of his blessings
upon your actions, ma-
nifested by your succe-
ses in his battails, as
may be justly terrible to
all his, and your Ene-
mies; and truly joyfull
to all his servants, and
your friends; of whom
it is to be feared, that as
God

Dedictory.

God hath but few firm
in his election, so you
have but few faithfull in
your assistance. Be plea-
sed therefore that it may
be inquired in the As-
sembly, whose promises
to your self, and your de-
pendants, whose Votes
in publick, and Vowes
in private have most
wilfully failed you and
yours: I shall not pre-
sume to inquire what
breaches have bin made
of performances in mat-

The Epistle

ters most nearly concerning you, and your Army, best known to your selfe: but what hath been performed of those promises made to you and your Army, for the relieving of your daily Orators, Prisoners for Debt; wrongfully restrained, contrary to *Magna Charta*, and all the true Laws of the Land, which men sitting in Parliament publickly profess, and have often sworn

Dedicatory.

sworne to maintein:
what ridiculous Acts
even those men have
made to delude you and
your Orators, their own
and all Gods people, to
cross those Laws more
than before, and to sup-
port their extortions,
& mercenarie practices
in all the waies of Inju-
stice, in an higher mea-
sure than their Predeces-
sors: what Justice can
be expected from such
Justicers? what mercie

The Epistle

can bee expected from
God to continue upon
that Land that shall suf-
fer such Mountibanck-
mock-lawes to live,
much more to sit, and
be *Legis-lators* amongst
them? oh! let such buy-
ers & sellers of Law and
Justice be thrown out
of the Temple, and the
House of the Lord be
purged of such abomi-
nations. The valiant
and Religious Patriot
Collonel *Pride* (in your
absence

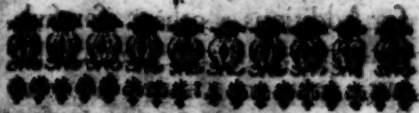
Dedictory.

absence)indeavoured to
work some proportion
of grace into those men;
to foresee and prevent
their owne confusion;
but the Adders would
not hear: O make them
(Sir!)make these subtile
Serpents innocent a-
gainst their wills; un-
sting them, unskin
them; for their Cases are
far more precious than
their Carkases. I have
here following demon-
strated their uselessness
in

The Epistle

in this Common-
wealth? which may it
please your Honor to
peruse at your leifure,
protect in your favour,
correct in your wil-
dome, and act in your
Justice; so God shall fur-
ther prosper you & your
posteritie, the Common-
wealth honor you and
them, and with the rest
of your Orators, and
theirs, I shall bee ever
yours to Command du-
ring life,

John Jones.



THE NEW
Returna Brevium
 O R
 The Law returned from
 W E S M I N S T E R,
 &c.



Ivers are the Speeches of
 divers Contrivers of a
 pretended *Reformation*
 of the *Law of England*,
 according to the diversitie of their
 opinions and self-ends premised
 therein ; for the effecting
 whereof, they would have their
 severall Propositions disputed ;
 some for Alterations, others
 for

for Additions, others for Sub-
 stractions; all for Corrections;
 but few or none knowing
 how to mend *Magna Charta*
 more than *Magnificat*; nor real-
 ly studying, but how to marre
 both. Observe how the worke
 directeth it selfe how it would
 be done: For as saith the *Mir-
 rour of Justice* written by Horn
 in King Ed. the 1. his time pa.
 8. It was ordeined (viz. by King
Alphred long before *Mag. Chart.*
 or the Norman Conquest)
 that Right should be done from
 15. dayes to 15. dayes, before
 the King and his Judges: and
 from moneth to moneth in the
 Counties (if their largeness re-
 quired not a longer time:) And
 that every three weeks, right
 should be administred in other
 Courts, And every free Te-
 nant

Returna Brevium

nant had ordinary Jurisdiction;
et. And before pa. 1. The
Sheriffs and Bayliffs caused the
Free Tenants of their Baili-
wicks to meet at the Counties
and hundreds, at which Ju-
stice was so done, that every
one so judged his Neighbour,
by such judgement as a man
could not else where receive in
the like cases, untill such time
as the Customs of the Realme
were put in writing, and cer-
tainly established. And al-
though a Free-man commonly
was not to serve without his
assent; neverthelesse it was as-
sented unto, that free Te-
nants should meet together in
the Counties, Hundreds, and
Lord's Courts (if they were not
specially exempted to doe such
Suits,) and there they judged
their

The new

their Neighbors. And againe pa.
8. It was ordained, That every
Plaintiffe have a remediall Writ
from the King (who reserved all
Pleas of the Crown, and above
40 s. to himselfe) to his Sheriffe,
in this forme.

Questus est nobis, Sec. viz. Com-
plaineth to us A. that B. doth him
such and such wrong, We therefore
committing to thee our Turn in
this behalf, command thee to hear
and determine that cause. Their
Jurors were Judges: And why do
Judges now at *Westminster* (that
can be no more absolute Judges
by their Commissions, than Re-
corders of Cities by their
Charters, Sheriffs in Counties,
and Stewards in liberties were
by their Writs, at this time
when Free English men under-
stood their Laws then known
and

Returna Brevium?

and practised in English) usurp more than those Judges did, or those ought? viz. to bee more than onely pronouncers of the substance of Jurors verdicts as well for Law as Fact; which pronounciation, is and ought to bee but as a Declaration of Kings assents to the due execution of that Law, which they and their people agreed upon in the great Charter, and its confirmation; to let the people know by these Judges, that then were, and still are, and ought to bee called the Kings or the States, as authorised by their Writs and Commissions to pronounce their Masters consents for their parts to convict the partie guiltie as the Judges of the people (viz. the Jurors) doe by their verdicts, which are
or

or ought to bee their true say-
 ings both for Law and fact for
 the peoples part and their own
 which consents of Kings or
 States now called Judgements
 (because a full conviction of
 the guiltie of both parts) if de-
 nied or delayed after verdicts,
 to bee pronounced there accor-
 dingly, by the Judges called the
 Kings or States. A Writ to
 command them to proceed to
 Judgement, and an *alias* *placitum*
 and Attachment ought to be
 granted by the Chancery-States,
 as you shall find in *Fitz. nat. br.*
fo. 143. to imprison them till
 they doe it, which is not usual-
 ly done by themselves in every
 cause in Court, but by the Pro-
 tonotarie of course entred up-
 on Record, unlesse respite bee
 required upon good cause shew-

Returna Brevium.

ed. And the execution which ever issueth in the name of King or State relateth to the Judgement, Conviction, which implyeth both the Judgements of King or States and people as aforefaid.

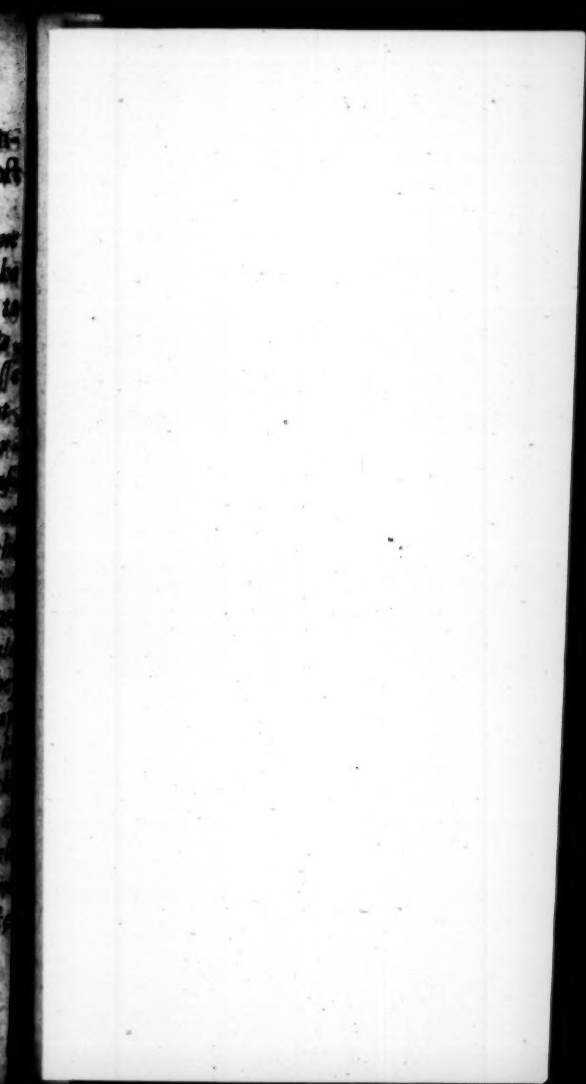
Would not therefore the common practice of the Lawes and their pleadings in English as at first they were bee more commodious and usefull to instruct all understanding Englishmen for their owne good to become experimentall sufficient Lawyers in their owne causes, than the moderne custome of hotch-potch French and Latine imposed by Lawyers for their owne gaine to instruct few others of their owne generation, to cheat the universalitie of the Nation of their rights and understandings

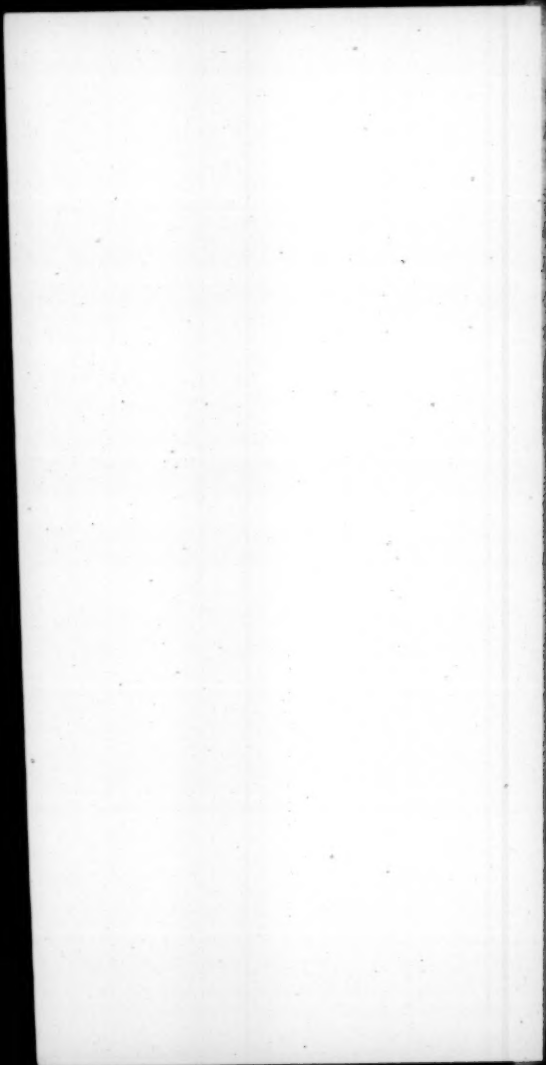
The new

understandings, and make themselves and their Counsels most learned in others affairs?

And againe, That every one have a Remediall Writ from the Kings Chancery according to his plaint, without difficultie, and that every one have proceffe from the day of this plaint, without the Seale of Judge or partie. And againe pa. 10. That after a plaint of wrong be sued, that no other have Jurisdiction in the same Cause before the first plaint be determined, &c. And againe that all the King's Courts should be open to all plaints, by which they had originall Writs without delay atwell against the King or the Queen, as against any other of the People, for every Injury, but a case of life, where the plaint be without Writ. Why al at Westminster

St





Returna Brevium.

fit not between terms? And
all elsewhere all the yeare long?
Certiorari's, Corpus cum causa,
Superfedeas, &c. issued thence till
the Judges at *Westminster* can bee
here at leisure to determine all
matters, which the multiplicitie
of rich mens causes so monopo-
lized thither cannot afford the
poore to end theirs while they
live commonly.

And againe page 11. That
all free Tenants shall bee obe-
dient, and appeare at the sum-
mons of the Lord of the Fee; And
if a man caused another to bee
summoned elsewhere than in
the Countie of the Avowants, or oftner
than from Court to Court,
they were not to obey such
summons. Why then should
any Free-holder of the Coun-
tie of *Middlesex*, or any libertie
thereof

thereof (except *Westminster*, and *St. Martins le grand London*) appear upon Summons at *Westminster-Hall*, which lately was the Fee of the Dean and Chapter of *St. Peters*, and now is at the States dispose, to whom they please.

And againe page 12. That the Lords of Fees might summon their Tenants by the Award of their Peers to the Lord's Court, or the County, or the Hundred, at all times that they detain, or deny their services in deed or word; and there they shall be acquitted, or forfeit their allegiance and all their Tenancie with the appurtenances, by the judgment of the Suitors. And per contra, the Lord doing wrong to their Tenants, shall forfeit their Fee to the Chief Lord, by the same judgement. Ob-

serve

Returna Brevium.

serve the Free-men of every libertie then were, as still they ought to be, Judges of their Lords for their Fees, aswell as their other neighbours for their Tenancies, and to end their differences there within their proper Fees respectively; and why not so still? And so let the chiefe Officers, Justices of Peace, and others of the Libertie of *Westminster* suffice for Judges for that precinct.

And page 13. That offenders guilty of death should not be suffered to remain among the guiltless. Why Convicts for felonies, &c. in *Newgate*, &c. amongst prisoners for debt?

And that the Goods and Chattells of Usurers should Escheat to the Lord of the Fee. This law restored, would enrich the Common-wealth, purge it of many

many needs and Cankerworms,
 and teach men to live by their
 own labors, and not by others.
 And pa. 14. That none should be
 ordained Ministers above the
 number of Churches; and that the
 poor should be sustained by Parson,
 Rectors, and Parishioners; so that
 none should die for want. How
 many die so daily now a days
 within every parish and Parson
 view? So much and more is
 affirmed by Master Horn to be
 the Common unwritten Law
 and Customes of England be-
 fore *Magnas Charta*; the Lord
 Coke in his preamble to his In-
 stitutions upon it, saith, It is
 but a written Charter, or De-
 claration in writing of the an-
 cient laws of this Land, agreed
 upon by King and People to be
 published, and preserved inviolable

Returna Brevium.

11

lable on both parts for ever,
and no new law made. Hereby
further appeareth what hath
been said of the agreement be-
tween King and People, that
none should be judged by the
Kings Judges but by verdict of
their Peers, called in this
Charter due process of Law. In
and by the 9th Chap. of which
charter, it is declared, That
the city of London shall have
the old Liberties and customs
which it hath used to have;
Moreover we will, and grant,
that all other cities, Bur-
roughs, Towns, and the Ba-
rons of the 5 Ports, and all o-
ther Ports shall have their Li-
berties, and free customs. Are
not all these Liberties and
customs grown obsolete, and
daily over-ruled at Westminster?
B And

And in the first confirmation of the said Charter 25. *Ed. 3. ca. 2.* It is further declared, That all Justices, Sheriffs, Majors, and other Ministers having the Law to guide them, (*viz. Mag. Chart. Forest.* then written and published) shall allow the said Charter to be pleaded before them in Judgement: and *cap. 2.* That any judgement shall be given henceforth contrarie to the points of the great Charter, shall be undone: whereupon (saith the Lord Coke) the Laws of the Realm have the office to guide the Judges in all causes that come before them in the wayes of right Justice which never yet misguided any that certainly knew them, and truly followed them.

By these Collections of
H

Horn before *Magna Charta*,
and confessions of the Lord *Coke*.
since, sufficiently appeareth
That the Laws (if published
to the people as they ought)
would be sufficient to guide
them all, in all the right wayes
of Justice. But the Justices at
Westminster that would guide
the Laws, as Popes Scriptures, by
their own Interpretations, ha-
ving purposely disguised them
in Pedlers French, and barba-
rous Latine, that few but
themselves can construe; and
forms so errorable as they can
devise for themselves to mend
when they list; which hapneth
sometimes for the rich, but rare
never for the poor; and
thereby denying, delaying, and
selling Justice at their own
rates; And their Frye, sitting

in the house, are the subverters of the Laws, as their Predecessors alwayes were, and thereby the continuall causers of all the civil wars of *England*; and besides all that, (under colour of Justice) murderers of more English men than all the Wars, Plagues, and Famine, which reigned in their times, destroyed without them: Witness their Statutes made and maintained against *Magna Charta*, for their murdering of Debtors in Prisons, with tortures and famine, when their extortions and their Gaolers have left them no means to buy bread; And for the unlawfull divorcing, scattering, and starving of their Wiyes and children by the bargain, and rob-

robbing their Creditors of those means that should pay their Debts in part, or all; and for protecting of Cheators, that take their Prisons for Sanctuaries, to leave so much of other mens estates with the right owners curse and their heirs, to their posteritie, as their judges and Gaolers extortions and their own riot cannot consume in their own time; As also their last Acts formerly mentioned for release of Prisoners, which intangle their bodies and souls more than before; And many other Statutes to intricate the Laws with such contrarieties, as none but such as have the Genius of their makers can reconcile: which when it is done, tendeth wholly to make themselves

great and rich, and the People
their slaves and beggers.

For Remedy whereof, it is
to be desired in the name and
right of the publick, that the
House would be pleased to be
swept and clenfed of such cobs,
and cob-webs, and to vote and
vomit out of the sanctified bow-
ells of that sacred Senate those
execrable excrements that poison
their intrailles, and deliver them
to publick Justice, which their
ravenous lives, and extorted pos-
sessions suffice not to satisfie;
but may in Gods mercie appease
his wrath, stay his Judgement,
and expiate this Land of that
wickedness which they have
wrought among us, and accu-
mulated upon us.

This done, The work fol-
loweth, and teacheth it self
how

how it would be done as afore-
said; declaring it self that *frustra fit per plura, quod fieri potest per pauciora*: vain is the labour
of many workmen, where few
may serve the Turn with far less
charge, and more conveniencie.
And breisly, vain, expencefull
and too burthensom to this
common^e wealth are the seve-
rall Courts hereafter mentio-
ned, upstarte over us, one after
another, since the first publish-
ing of *Magna Charta*, as Here-
ties sprung immediately after, if
not with the first preaching of
the Gospel: *viz.* Out of the
Court lately called the *Kings
Bench*, issued the *Common-Pleas*,
and the *Eschequer*, which took
their leave of it in *Magna
Charta*, and left it to follow
the King; and so I conceive it

ought to do still, for that there is no use rightly to be made of it, but to hear and determine the Pleas of the Crown, which the Lord Coke upon *Magna Charta* saith were wont to be determined by Stewards in their Leets, Sheriffs in their Turns, Recorders in Corporations, and countrey Judges in Signiories, which had *in re Regalia*: all which now, Justices of Peace having more power in matters determinable by common Law, than Justices in Eire had (if rid of the soveriegnitie usurped over them by their fellow-Justices, their *Certioraries*, &c.) may ease of much labor. Moreover, the chief Justice of this Court ought to be but the Kings deputie by writ; and no King in being,

being, no such Deputy can be. *Hugh de Burgo* Earl of Kent, chief Justice under King *Henry* the third, took his oath with his Master, to observe and maintain *Magna Charta*, and soon after persuading the King to break it, became the first Perjurer of his place in that point; as the Lord Cook upon *Art. sup. Chart.* declareth at large. Since which time, the practice of this Court, being but to murder debtors over whom it hath no jurisdiction, and consequently perjurie and injurie to the Common-wealth; why may it not be spared as well as the King? While (as saith the Lord *Coke* afore-said) all Majors, &c. have the Law to guide them, and now Englished unto them, where then can be

the defect of Justice, but in the Justices (as before) that will not execute them? since it is Law it self that the Laws are to be interpreted so, that there shall be no failer of Justice to the people. And few or no Laws besides *Magna Charta*, and it's confirmations, will serve to do that without those superfluous number of volums which Lawyers have contrived for their own *Reports of Cases*, and crafty disputes, arguments, and cavils pass'd among them; but to be used by such as have minde and leisure to reade them, as Divines may the Works of the wantonest Poets, to pick out their flowers for their Pulpits, and leave their scurrilities to others of their Autor's *genius*. Or as Interludes,

in which all parts were not all bad, and though all prohibited to be publickly acted, yet may *Terence* be read in Schools.

And may not those Statutes that relate to the *Justices* of either Bench, &c. bee executed without them, aswell as those that relate to the Bishops, are without them? And this Court thus spared, will spare the Common-wealth in Fees and extortion above five hundred thousand pound *per Annum*, besides unknown bribes, and their known salarie of 4000. l. *per Annum*, as Sir *John Lenthall* and his 4000 prisoners or thereabouts, between *Thule* and *Callicute*; and Mr. *Henly* with his hoste of Scribes, whose Van is at *Michael's mount*, and Rear at *Barwick*, (if convented, and

and compell'd to confess truth)
can declare at large.

The *Chancerie* was no Court
of judicature, nor personated
by a Lawyer, but commonly
by a Monk, or Bishop, (as we
have seen lately in *England* and
Ireland) whose office was to
follow the King with the Seal,
and to seal Writs *gratis* at the
kings cost, as the Lord *Coke*
affirmeth, and *Rast. fol. 68.*
citeth the Statute of *Art. super*
chart. and sheweth that the
breaches of those Articles were
the first thing given to the
power of the Chancellor to
judge of (who being likely a
Bishop, had charge as a Bishop
by virtue thereof, to excommu-
nicate the breakers thereof:) In
the 36th year of the reign of
king *Edward first*, cap. 40 from
which

which little fountain sprung
that *Nilus* that ever since over-
floweth all *England*, not onely
once every seven years, but
seven times at least in every
year. The *Chancery* (a Court of
Conscience forsooth) raised up-
on pretence of equitie, and re-
lief to such as complained of
oppressions against the breakers
of this Statute, which was the
first confirmation of *Magna*
Charta; and no sooner thus rai-
sed, but it despised both its rai-
ser, and the cause, extolled it
self, and over-topped all the
Courts of *England*; refusing to
grant the ancient Commissions
in *Eire* to whom their Coun-
ties chose; and of *Oyer* and
Terminer to any that had oc-
casion to use them, as lawfull
was according to *Fitz. Herbert*
Nat.

Nat. brev. fo. 112. and *Cromp. sep. fol. 51.* and all Writs to any without excessive Fees, and extortion, contrarie to all Laws, the Oath of a Judge, and the practice of the office it self, as it was formerly *gratis*: and neglecting to send *Magn. Char.* to every Sheriff yearly, to be read four times in full Counties, and to every Church to be read twice yearly: And the writ set down by the Lord *Coke* to bee issuable to all Sheriffs to apprehend all subverters of the Law, and to commit them to the common Gaol; which I confesse is politickly forborn, lest *Chancellors* and the rest of their brother *Judges* should bee taken for the chiefest delinquents in that kinde, and carried from *Westminster*

minster to Newgate as (I dare swear) they have often deserv'd: But when I consider how ready their *superseas's* are to Sheriffs, Justices of Peace, &c. when they please and their *Injunctions* to stay Suits at common Law, (most proper to be determined there) and the disregard they make of the late Statute of 15th Hen. 6. 4th which forbiddeth them such matters, I confess no need they have to fear Sheriffs to displease them; but marvel how they can be so uncharitable, as to separate mercie which they call equitie, from Justice, being that as *Justice without equity is merciless rigor*, so *Equity without Justice* (if any such could be) would be an *unjust iniquity*, and both these (notwithstanding they would seem

seem to divide Equity from justice) are found individuals in Chancerie, as Equitie and justice were in Courts of common Law, before Chancerie was; and so ought to be still, as Mercie and justice ever were and will be in the individuall *trinumine* chief Iustice of heaven and earth, whose mercy is above all his works; but *Chancellor's* works are commonly above all mercy, when they can finde no time, nor means to end any Cause, till both parties finde the end of their money, and their time lost to gain Lordships to Chancellors and their Heirs; for who saw a Lord Chancellor but had a Lord Baron at least to his heir, except *Sir Francis Bacon*? and who saw a gainer to himself, or his heir by

by a Suit in Chancerie, except
it might be *John Johns* the
cunning Merchant, or one that
had less right to land then Kee-
per *Covenrie* could think fit to
purchase in his man's name, and
yet gained a precious decree a-
gainst the right owner? Where-
fore this two-door'd or double-
leav'd Court of Chancerie
and Rolls, being most pern-
icious to this Common-wealth,
which it generally beggereth to
enrich it self by eneroaching up-
on all mens liberties, and draw-
ing all those matters to *West-*
minster which might be decided
at home, with far more speed,
justice, equity, and conveniency;
and les charge, pains and at-
tendance to both parties, where
they are best known, or to be
known.

known in their own Court. Let this Court be spared, with the other, and the Commonwealth will be further spared of the treble charge of the former yearly, as the Warden of the *Fleet* and his prisoners, (as numerous as the *Kings Bench* men) and the numberless *Armando* of Chancerie caterpillars can sufficiently witness, if they please: whereof one thousand pounds *per annum* would be a competent salarie for a Keeper of the Seal, and fiftie pounds *per annum* for his man to attend it: And another thousand pounds *per annum* to ten Clerks to do the office of six, (antiently blew bonnets, two thousand pound *per ann.* a piece or more) with allowance of Parchment, ink, wax, candles, firing, lodging,

ing, and a fit office to write all
necessarie Writs for all the Com-
mon-wealth. And the *Clerkships*
of the *Crown* and *Chanaper* may
be united in one person, (as in
Ireland they were in *Mr. Edg-*
worth, and since in *Mr. Carleton*)
who may be thought worthie
of five hundred pound *per*
annum, and all accommodation
for his office, without any fees;
and fortie pound *per annum* a
piece for three under Clerks to
assist him to dispatch all busi-
nesses belonging to either of
the said offices, without fees like-
wise.

The Court of *Common pleas*
at *Westminster* would be aswel
spared as any, for that all
Common-pleas are common to
all Courts in Cities, and Coun-
ties, and ought to be tried
there,

there, (as the Lord *Coke* upon *Magna Charta* on the County Court confesseth) which sparing, would spare the Common wealth *per annum* no less than the greatest of the former two.

The Court of *Exchequer* reduced to it's proper jurisdiction, officers, and fees, concerning the publick Revenues, may be continued for that service onely, and suffice to maintein the Warden of the *Fleet*, and some of his men, to walk between the *Fleet* and the Court, to guard Chequer-Accomptants to their *Quietus*, and this would spare the Kingdom another Ten thousand pound *per annum*, as the wardens of the *Fleet*, the two Remembrancers, and Mr *Long* can tell.

COURT

Courts and Justices of *Affizes*, *Nisi prius*, and Gaole-deliveries, are as necessarie for *England*, as *Landlopers* for the *Netherlands*, where the Boars claw their backs, and their dogs bite their shins for their intrusions: or as *drowns* are to *Bee-hives*, whence the Bees have good cause to chace them, for devouring their honey. For all matters of *Affizes* and *Nisi prius* belong to countie courts, Hundred & courts, courts Baron, and Corporation courts (as the Lord *Coke* confesseth as aforesaid) and *Crompt.* affirmeth in his jurisdiction of Courts, fo. 240.) and matters of Gaole deliverie belong to Sheriffs turns, Leets, and Sessions of the peace, as the said *Autors* affirm, and the

the commissions of the peace and charters of corporations can prove and warrant. Wherefore those three courts spared (as well they may and ought) the commonwealth will be further spared of two annuall Visitations of severall swarms of *Westminster* locusts, the charge whereof I refer to the consideration of them that bear it, and usually pay it.

The court of the *Marshalsey* raised to that exorbitancie that King *James* and King *Charles* did, may and ought to follow their fortunes, and their households; and more I shall not say of it, but that it is full of extortion and injustice, being never owned by Law beyond the verge, and that being vanished with the Kings person,
so

so ought that Court. The sparing of this Court would spare the Commonwealth a great deal of charge more then I can calculate ; but Mr. *Say* an honourable Member of the House may advertise the rest thereof, with the advice of Mr. Serjeant *Green*, and others late Judges and officers of that Court.

The sparing of all these courts, and the charge thereof amounting to, if not surmounting three millions *per annum*, and the confirmation of *Mag. Cart.* and the *Petition of Right*, once more by this Parliament, would also spare to the commonwealth, and its better service, the lives and employments of many thousands of able men wrongfully im-

imprisoned for debt, and convert the lives and employments of many thousands of Attornies, Solicitors, Gaolets, Catchpols, Decoyes, Setters, &c. To better uses both for their soules and bodies, and for the publick benefit. Then Sheriffes Turns, Hundred Courts, Leets, Court Baron, Sessions of peace, and Corporation-Courts, restored to their ancient and right jurisdiction, which fall to them of themselves, which when those aforelaid are taken away, would be all sufficient, and onely necessary to hear and determine all the causes of *England*, reserving Appeals to such as shall have cause, to Parliament or Commissioners of Oyer and Terminer to be assigned, as *Fitz H.* and *Cromp.* affirm anciently lawfull, and
usual

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31

usual, proof being made first of
the partialitie, or injustice of
the proper Court, and no bare
accusation, allegation, or pre-
sumption to serve for the issua-
ing of such Commissions as
now is used. Except causes pro-
per for Coroners, Escheators,
Pipe powder Courts, and Clerks
of the Market, of whose misde-
meanors, Justices of Peace have
power to hear and determine but
not to hinder in due execution
of their Offices, which are all
necessary in their kinds in eve-
ry County, and specially Co-
roners and clerks of the Mar-
ket, the first for discovering of
murders &c. whereof God re-
quireth an exact account, (as
Scriptures and Reyholds History
sufficiently witness. And the
other for the punishing of
C frauds

frauds in weights and measures, which *Solomon* saith are abominations to God; yet nothing more common amongst us, the more fearfull his judgements upon us without timely repentance and future amendment. And for the superintending of the defaults of those that have power to correct such offences, and do not.

All these *Courts Officers* and *Offices* that are thus necessary will be no more chargable to the Common-wealth hereafter, than alwaies they have been heretofore, but as usefull now as ever; and more profitable to the Common wealth now, than ever before, because that in this time of Reformation, these *Officers*, as others, being chosen of approved persons for their

their Integrity, will endeavour (like their Superiours) the amendment of all offences, which they have power to chastize; whereas their Predecessors (imitating their Superiours) to their own ruin, intended their own private gain by publick transgressions, and to that end increased iniquities in themselves, and others.

If any offer to plead, or object the customs and usages modernly observed time out of minde, against this reducement, and restauration of the Law, and its practice, to their antient usages; I answer, *Mala Consuetudo non est observanda*: An evil custom is not to be continued; and Customs against Law are unlawfull to be used: And to what end is Reformation,

tion, but to take away such customs? And Statutes lately made to support them by those that raised and used them, for their own gain and others damage? contrarie to all the Laws of God and Man, and especially of *Magna Charta*, and its confirmations, wherein appear the right and Primitive customs and usage of this land, agreeable to them, claiming therefore to be restored, as in Justice they ought, and the other to be abolished, as likewise they ought.

And being come to speak of ancient customs to be restored, and modern to be abolished, I cannot chuse but remember the *Poor*, (as most men do) in the last place: for it was a custom as ancient as Christianity,

Returna Brevium.

anitie, for Christians to give lands, moneys, and goods in a large measure to relieve the poor, till Monks, Friars, and other Abbey-lubbers (as unsatiable, as idle) dulled mens charities with their continuall beggings in the name of the poor; and grew sacrilegious, robb'd spittles, made that which was common to the poor, as well as themselves, proper to themselves; and gave out of that which was none of their own, for assistance to countenance that Sacrilege, the first Fruits, Tenths, &c. to the *Pope*, who had as much right thereunto by their gift, as the Devil; and consequently King *Henry* the eighth as much as the *Pope*, and his successors (whether Kings or States) as much

as he. Whosoever conceive's
I write too boldly, or speak too
plainly herein, let him read
(not onely Histories forraign
and domestick, but) the Re-
cords and Statutes, extant and
in force amongst us, *videlicet*,
That of *Carlile de Asportatis Re-*
ligiosorum 350. Ed. 1. And that
de terris Templariorum 170. E. 2
And those of the dissolutions
of Hen. the 8th. between which
first and last he may finde many
more to inform his conscience,
so that his heart may think, his
tongue speak, and pen write
much more than I do in this
matter. All that I desire is, that
the poor may be looked upon,
if not with an eie of pitie, yet
with an eie of wisdom, taking
notice that if the wedge of *A-*
chan be not enquired for, dis-
covered,

covered, and recovered, the Nation may rue it: And that *Popes, Kings, Bishops, &c.* that cared not how lean they made the poor, while they might make themselves fat with their provisions, and those that expected their reversions, have cause by this time to be sensible of their Sacriledge.

And that therefore the Spirit of Reformation would be manifested in the works of Charitie; and if such as have griped the patrimony of the Church into their claws, can finde in their hearts to restore to the poor no part of that *interest* which all the said Statutes and manie more, and all the writings of the Fathers, and many of our own modern Bishops (who unjustly detained

all they could from them) abundantly confess and testify they ought to have in all Ecclesiasticall possessions, not as the Alms of the Incumbents, but as their own rights by the express Wills and donations of the Primitive Founders of Churches, Hospitals, &c. and other devout Donors, and Benefactors to such places, from time to time so excessively bountifull to the Clergie and Corporations for the poors sake, that the Statutes of Mortmain were made to restrain them.

All which notwithstanding the Clergie possessed no less than a third part of *England* and *France* (as *Sir Walter Rawleigh* and *Sir Nathaniel Brent* have written) but not to
 their

their own uses (as they wickedly converted it) but as Administrators to and for the poor, as the same Autors, all the Fathers, and *Littletons Tenures de frank Almoine*, and *Tenant* in common, sufficiently witness. Yet may the Parliament be pleased that Commissions for charitable uses be granted to discreet persons throughout *England* and *Wales*, not without Fees, wages, and accommodations for themselves and their Officers, competent for their attendance in that service, and loss of time in their own affairs, being Charitie beginneth at home, and no man can or ought to neglect his own charge to follow others profit *grains*, which maketh the Commission now

in London and elsewhere ill executed, as the distressed of *Ireland* by wofull experience can lamentably verifie. Nor let the number for a Court exceed 3, for the ease of the charge, which must be either charitably allowed and paid by the State, or deducted (as the late Lord Privie Seal in the book of order approved by the Councell Table 6^{to}. *Car.* and the Additional Act for the Sabbath, &c. declare to be lawfull for prosecutors) out of the poor's right. Nor let such Commissions be limited by the Statute of 43. *Eliz.* 4. as now it is, which Statute appeareth by its exceptions, and jurisdictions reserved to Bishops and Chancellors to be a Prelatical Chanzrized confederacie to de-
clude

lude and defraud the poor at their pleasures; witness the heaps of lost labored decrees made thereupon, remaining unexecuted in the Petty-bag Office. And *Philip Thomas* his experiment in the carriage of many thereof in *Abbeys, Lands, Coventries and Littletons* reigns; which he may declare the freer since the death of those Lions. Nor let the Clerk of the Crown for such damnable Fees, and extortion of 50. s. or more, as is now used for a Commission for every County; be allowed, but as it is used for Commissions of the peace, which if done gratis, would be more charitably done for the poor, than for Justices; and he may shorten his labor by making one Commission for

for severall Countiees for charitable uses, which he may not do for the peace for divers reasons. Nor let such Commissioners have power in their Commission to put their Orders, Judgements, and Decrees in execution (as all other *Overs and Terminers* have) without relation to any other Court than Parliament for any alteration whatsoever. Nor power to punish vagrants, &c. and for such as are able to work.

This granted, the poor of *England*, which to the shame thereof, beyond all other Countries Christian or Heathen daily perish in streets, fields and ditches, defrauded of larger provisions made for them by Laws and Legacies, than any other

other Nation can parrallel, and deluded like *Tantalus* for his apple, may by this means be enabled to catch into their empty, vain, gaping, begging mouths; and hungrie panches, some crums of some Alms-houses, to prolong their daies, to direct their prayers for their benefactors, to ascend like sweet incense to the Lord, in stead of the unsavouriness of their putrified members, to annoy their oppressors and offend others; And such as are able to work, may be employed for benefit to themselves and others, and so the streets and fields be cleared of those loathsome sights and importunate clamors which Forrainers admire, and Domesticks abhor, yet neither help: All which I humbly submit to all honorable,

rable, charitable, and religious
considerations, which God
guide for his own Glory, and
their own good. *Amen.*

Postscript.

91

Hear I am charged
wth using other heads
than mine own in
these my poor labors. Truly I
cite my Autors as the onely
heads I dare trust to defend
me & mine from the hands
of their degenerate succes-
sors, & such others as (regar-
ding their il-gotten wealth
more than their souls) ma-
lign my endeavours in seek-
ing to restore those springs
that flow from my said autors
(the pure heads thereof) to
their proper Channels, & dis-
may such heads & hearts as
might and would give me
helps, or write better them-
selves; so that all the helps
I can get of them, is but to tel
me, that they would not write

52 So plain as I do in this mat-
ter for thousands of pounds.
Wherto I answer, they have
so much to lose, and I but my
life & labor, which for truth,
and it's plainness, I am ready
to sacrifice to Gods provi-
dence, which I find not care-
less of my protection, having
raised me honorable friends
without any merit or expec-
tation of mine, but only of
their own worthines, amongst
whom the right nobly mind-
ed, as well as descended Gen-
tleman William Steward of
Loken Heath in the County
of Suff. Esq; affecteth me for
my affection in particular to
himself, in general to all,
heartneth me more than ma-
ny to proceed in my work,
and to pray for you and me

not for its workmanship, but
 its meaning, not for its plau-
 sibility at present, but its pos-
 sibility in future, not for its
 distaste to angel tong'd Law-
 yers, corrupt-lung'd Gao'ers,
 &c. whose exorbitances, not
 persons, are distastefull to
 him, & all good Christians;
 but for its seasonableness, ti-
 mously to inform them to
 mend themselves speedily, or
 submit to be mended by more
 indifferent judgments; not
 for any profit that may ther-
 by redound to him in private
 more than shall to al in pub-
 lick; not for any praise he de-
 serveth (w^h I must witness he
 serveth above many thou-
 sands) to himself; but for the
 glory of God, which he zea-
 lously

lously intendeth in al his studies & actions, & honor of most worthily-honored personages (of his kindred and alliance) w^{ch} he conceiveth will be much improv'd by their accumulating their merits in the accomplishment of this work of Reformation religiously begun, & indefatigably pursued by them; continually promised by others, universally expected by al (except those promisers that never meant to be performers) and particularly pointed at in this treatise, & my former, so far as I humbly conceive necessary for Law, & Officers needful for the Commonwealth, in which vigeat, floreat, duret shalbe my daily prayers. Amen
men again. Amen



Anno III. Caroli Regis.

THE

PETITION

Of Right granted

in the third year of the

late King, and confirmed

this present Parliament

for the good of the

Common-wealth

to the Kings most excellent

MAJESTIE.



Umblly sheweth unto our
Sovereign Lord the
King. the Lords Spi-
ritual & Temporal and Com-
mons, in Parliament assem-
bled,

bled, that whereas it is declared
 and enacted by a statute made
 in the time of the reign of King
 Edward the first, commonly
 called, Statutum de Tallagio
 non concedendo, That
 Tallage or Aid shall be lawfully
 levied by the King, or his heirs
 in this Realm, without the
 good will and assent of the
 Archbishops Bishops, Counts,
 Barons, Knights, Burgeesses
 and other the Freemen of the
 Commonaltie of this Realm.
 And by authority of Parliamēt
 holden in the fife and
 twentieth year of the reign of
 King Edward the third, it
 declared & enacted, That
 henceforth no person should be
 compelled to make any loan
 to the King against his will
 because such Loans were
 gained

against reason, and the Fran-
chise of the Land. And by o-
ther Statutes of this Realm it
is provided, that none should
be charged by any charge or
composition, called a Benevo-
lence, nor by such like Charge,
which the Statutes before
mentioned, and other the good
Laws and Statutes of this
Realm your Subjects have
enjoyed this Freedom, That
they should not be compelled
to contribute to any Tax,
Cottage, Aid, or other like
Charge, not set by common
consent in Parliament.

Yet nevertheless of late,
by divers Commissions directed
unto sundrie Commissioners in
several Counties, with in-
structions have issued; by means
whereof people have been in-
vaded

thers places assembled, and re-
quired to lend certain sums of
money unto your Majesty
and many of them upon their
refusal so to do, have had as-
saults administered unto them,
not warrantable by the Lawes
or Statutes of this Realm, &
have been constrained to be-
come bound to make appear-
ance, and give attendance be-
fore your Privie Councel, and
in other places; and others of
them have been therefore im-
prisoned, confined, and in
diverse other waies molested and
disturbed. And divers other
charges have been laid and im-
posed upon your people in seve-
ral Counties, by Lordes, Treasurers,
Deputy-Treasurers, Commis-
sioners, Justices of Peace,

And others, by Command and Direction from your Majesty, or your Right Council, against the Lawes and free Customs of the Realm.

And where also by the Statute called The great Charter of the Liberties of England, It is declared and enacted, That no Freeman may be taken or imprisoned, or be disseised of his Free hold, or Liberties, or his free Customs, or be outlawed, or exiled, or in any manner destroyed, but by the lawfull Judgement of his Peers, or by the Law of the Land.

And in the eight & twentieth year of the reign of King Edward the third, it was declared and enacted by authority of Parliament, that no man of what

what estate or condition that
he be, should be put out of
Land or Tenements, nor to
be nor imprisoned, nor dis-
herited nor put to death with-
out being brought to answer by
due Process of Law.

Nevertheless against the tenor
of the said Statutes, and
other the good Laws and Sta-
tutes of your Realm, to the
end provided, divers of your
Subjects have of late been im-
prisoned without any cause
showed: and when for their
liberance they were brought
before your Justices by your
Majesties Writs of Habeas
corpus, were to undergo and
receive in the court thereof
but their keepers committed
to certify the causes of their
detainer, no cause was cer-
tified,

lised, but that they were detained by your Majesties special command, signified by the Lords of your Privie-Council, and yet were returned back to several prisons, without being charged with any thing to which they might make answer according to the Law.

And whereas of late great Companies of Souldiers and Partners, have been dispersed into divers Counties of the Realm, and the inhabitants, against their wills, have been compelled to receive them into their houses, and there to suffer them to sojourn against the Laws and Customs of this Realm, and to the great grievance and vexation of the peo-

And whereas also by auto-

D

ritie

city of Parliament, in the five
and twentieth year of the
Reign of King Edward the
third it is declared and enacted,
that no man should be fore-
judged of life or limb against
the form of the Great Charter,
and the law of the Land; and
by the said Great Charter
and other the Lawes and Sta-
tutes of this your Realm, no
man ought to be adjudged to
death, but by the Lawes estab-
lished in this your Realm, ei-
ther by the customs of the same
Realm, or by Acts of Parlia-
ment; And whereas no of-
fender, of what kinde soever,
is exempted from the proceed-
ings to be used, and punish-
ments to be inflicted by the
Lawes & Statutes of this your
Realm; Nevertheless, of
late time divers Commissions
under your Majesties great

real have issued forth by which
certain persons have been as-
signed & appointed Commis-
sioners, with power and auto-
rity to proceed within the
land, according to the Justice
of Marttall Law against such
Souldiers or Partners, or o-
ther dissolute persons joyning
with them, as should commit
any murder, robberie, selo-
nie, mutinie, or other outrage,
or misdoemeanor whatsoever,
and by such summarie course &
order, as is agreeable to Mar-
tial Law, and as is used in
Armies in time of War, to
proceed to the tryal and con-
demnation of such offenders,
and them to cause to be execut-
ed, and put to death, according
to the Law Martial.

By precept wherof some of

D 2

you

your Majesties Subjects have been by some of the said Commissioners put to death, when and where, if by the Laws and Statutes of the land they had deserved death, by the same Laws and Statutes also they might, and by no other ought to have been judged and executed.

And also sundrie grievous offenders by color thereof, claming an exemption, have escaped the punishments due to them by the Laws and Statutes of this your Realm, by reason that divers of your Officers and ministers of Justice have unjustly refused, or forbore to proceed against such offenders, according to the same Laws and Statutes, upon pretence that the said offenders were

were punishable only by partial law, and by authority of such Commissions as aforesaid. Which Commissions, and all other of like nature are wholly and directly contrary to the said Laws and Statutes of this your Realm.

They do therefore humbly pray your most excellent Majesty, that no man hereafter be compelled to make or yield any Gift, Loan, Benevolence, Tax, or such like Charge, without common consent by Act of Parliament. And that none be called to make answer, or take such Oath, or to give attendance, or be confined, or otherwise molested, or disquieted, concerning the same, or for refusal thereof. And that no Freeman, in any

D 3 such

such manner as is before mentioned, be imprisoned or detained. And that your Majesty would be pleased to remove the said Soldiers and Partners, and that your people may not be so burthened in time to come. And that the foresaid Commissions for proceeding by partial Law, may be revoked and annulled. And that hereafter no Commissions of like nature may issue forth to any person or persons whatsoever, to be executed, as aforesaid, lest by colour of them any of your Majesties Subjects be destroyed, or put to death, contrary to the Laws and franchise of the Land.

All which they most humbly pray, of your most Excellent Majesty,

Majestie, as their Rights and Liberties, according to the Laws and Statutes of this Realm. And that your Majesty would also vouchsafe to declare that the Awards, doings, and proceedings to the prejudice of your people, in any of the premises, shall not be drawn hereafter into consequence or example. And that your Majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your Royall will and pleasure, That in the things aforesaid, all your Officers and Ministers that serve you, according to the Laws and Statutes of this Realm, as they tender the Honor of your Majesty, and the prosperity of this Kingdom.

D 4

Which.



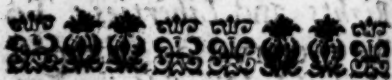
VVhich Petition being
read, the second of June,
1628. the Kings An-
swer was *thus deliver-*
ed unto it.

THe King willeth;
that Right be
done, according
to the Laws and
Customs of the Realm;
And, that the Statutes be
put in due Execution, that
His Subjects may have no
cause to complain of any
wrong, or oppressions,
contrarie to their just
Rights

Rights and Liberties: To the preservation whereof, He holds Himself in conscience aswel obliged, as of his Prerogative.

But this Answer not giving satisfaction, the King was again petitioned unto, that he would give a full and satisfactory Answer to their Petition in full Parliament.

Where



Whereupon the
King in person, upon
the seventh of June,
made this second
ANSWER.

My Lords and Gentlemen!

He answer I have
alreadie given
you, was made
with so good de-
liberation, and approved by
the Iudgements of so many
wise men, that I could not
have imagined, but that
it should have given you
full satisfaction; but to a-
void al ambiguous interpre-
tations,

tations, and to shew you that there is no doubleness in my meaning, I am willing to please you in words, as well as in substance; Read your Petition, and you shall have an answer, that I am sure will please you.

And then causing the Petition to be distinctly read by the Clerk of the Crown, The Clerk of the Parliament read the Kings Answer there-
to in these words,

* Soit droit fait
come est desire.

* Let
Right be
done as
desired.

Which

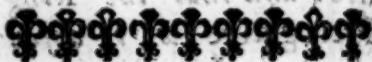
Which being done, the
King in Person said
thus,

THis I am sure is
ful; yet no more
then I granted
you in my first
Answer; for the meaning
of that was, to confirm all
your Liberties: Knowing,
according to your own Pro-
testations, that you neither
mean, nor can hurt my
Prerogative: And I assure
you, my Maxime is, That
the Peoples Libertie streng-
then's the Kings Preroga-
tive,

tive, and that the Kings
Prerogative is to defend
the peoples Liberties.

Yee see now, how ready I
have shewed my self to satis-
fie your Demands, so that I
have done my part; Where-
fore if this Parliament have
not a happie Conclusion, the
sin is yours, I am free of it.

And



AND

June 26.
1628.

On the last day of the
Session,

HIS MAJESTIES
Speech to both Houses,
Before his Royall as-
sent to the Bills,
was this.

My Lords and Gentlemen !



*I may seem strange
that I come so sud-
denly to end this
Session: therefore before I
give my assent to the Bills,
I will tell you the Cause,
though*

though I must avow that I ow
an account of my Actions
to none but God alone. It is
known to every one, that a
while ago the House of Com-
mons gave me a Remon-
strance; how acceptable eve-
ry man may judge; & for the
merit of it, I wil not cal that
in question, for I am sure no
wise man can justifie it.

Now since I am certainly
informcd that a second Re-
monstrance is preparing for
me, to take away my profit of
Tonnage and Poundage (one
of the chiefeſt maintenances
of the Crown) by alleging
that I have given away my
right thereof, by my Answer
to your Petition. This

This is so prejudicial unto me, that I am forced to end this Session some few hours before I meant it, being willing not to receive any more Remonstrances, to which I must give a harsh answer.

And since I see that even the House of Commons begins already to make false Constructions of what I granted in your Petition, lest it be worse interpreted in the Countrey, I will now make a Declaration concerning the true intent thereof.

The Profession of both Houses, in the time of hammering this Petition, was no waies to trench upon my Pre-rogative,

rogative, saying, They had neither intention nor power to hurt it.

Therefore it must needs be conceived, that I have granted no new, but only confirmed the ancient Liberties of my Subjects: Yet to shew the cleerness of my intentions; that I neither repent, nor mean to recede from any thing I have promised you, I do here declare, That those things which have been done, whereby men had some cause to suspect the Liberty of the Subjects to be trencht upon (which indeed was the first and true gound of the Petition) shall not hereafter be drawn into Example
for

for your prejudice: And in time to come (in the word of a King) you shal not have the like cause to complain.

But as for Tonnage and Poundage, It is a thing I cannot want, and was never intended by you to ask, never meant (I am sure) by me to grant.

To conclude, I command you all that are here, to take notice of what I have spoken at this time, to be the true intent and meaning of what I granted you in your Petition: But especially you; my Lords, the Iudges, for to you onely, under me, belongs the interpretation of Laws; for none
of

of the Houses of Parliament,
joynt or separate, (what new
doctrin soever may be rai-
sed) have any power, either
to make or declare a Law
without my consent.



The





Here followeth the Confirmation of the said Petition by this present Parliament (as it is to be read in the Act, Intituled, *An Act for the declaring unlawfull and void the late proceedings touching Shipmony, and for the vacating of all Records and process concerning the same,*) in these words, viz.

BE E it declared and enacted by the Kings most Excellent Majestie, and the Lords and Commons in this present Parliament assembled, and

and by the autoritie of the same, That the said Charge imposed upon the Subject for the providing and furnishing of Ships, commonly called Ship-mony, and the said extrajudicial opinion of the said Iustices and Barons, and the said Writs and every of them, and the said agreement or opinion of the greater part of the said Iustices and Barons, and the said Iudgement given against John Hampden, were & are contrary to and against the Laws and Statutes of this Realm, the Right of Propertie, the libertie of the Subjects, former Resolutions in Parliament, and the Petition
of

of Right made in the third year of the Reign of his Majestie, that now is. And it is further declared, and enacted by the Authority aforesaid, That all and every the Particulars praied or desired in the said Petition of Right, shal from henceforth be put in Execution accordingly, and shalbe firmly and strictly holden and observed, as in the some Petition they are prayed and expressed.

Observe that the greater part of Iustices and Barons, used to direct Writs and Agreements, & give their Opinions and Iudgments contrary

The Confirmation. 83

*trarie to and against the
Laws and Statutes of this
Realm, the Right of Pro-
perty, and the liberty of the
Subjects. And why there-
fore suffered longer so to do?
and their unanimous ani-
mals sit in Parliament to
make Laws by their advice
to their own ends, and pub-
lick mischiefs?*

F I N I S

The Constitution

to the people of the United States
I have the honor to acknowledge
the receipt of your letter of the
2nd inst. and in reply to inform
you that the same has been
forwarded to the proper authorities
for their consideration. I am
very respectfully,
Your obedient servant,
John Adams

1776



JURORS JUDGES

OF
LAW and FACT: 4

Or, certain Observations of certain differences in points of Law between a certain reverend Judg, called *Andr. Horn*, and an uncertain Author of a certain Paper, printed by one *Francis Neale* this year 1650. styled, A Letter of due Censure and Redargution to Lievt. Col. JOHN LILBURN, touching his Tryall at Guild-Hall, London, in Octob. 1649. subscribed H. P.

Written by JOHN JONES, *Gent.*

Not for anie vindication of Mr. *Lilburn* against anie injurie which the said Author doth him, who can best vindicate himself by due courf of Law; if not rather leav it to God whose right it is to revenge the wrongs of his servants.

Nor of my self, but of what I have written much contrary to the Tenents of this Letter; and for the Confirmation of the free People of England, that regard their libertie, propertie, and birth-right, to beleev and stand to the truth that I have written, so far as they shall finde it ratified by the laws of God and this Land; And to beware of Flatterers that endeavor to seduce them under colour of good counsel, to betray their Freedoms to perpetual slavery.

*Hostis vera dicens amico ad gratiam simulanti
omnino praeponendus est: Euf.*

An Enemy speaking truth, is to be always preferred before a flattering Freind.

London, Printed by *W. D.* for *T.B. & G.M.* at the three Bibles in *Pauls* church-yard, near the west end

THE [illegible] OF [illegible]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

[illegible text]

[illegible text]



To the
POLITIQUE BODIE,
And Unanimous Fraternitie of the
ARMY of ENGLAND;
Officers and Souldiers,
Ioyntly and severally.

HOnored and Honora-
ble : Commanders
and Commanded :
Wise and Prudent : Grave
and Valiant : Seniors and
A 3 Ju-

The Epistle.

Juniors : Souldiers all: Un-
known to most , Cherish-
ed by som, ingaged to ma-
ny ; I presume to write to
you all , concerning what
most concerneth us all : To
Honor God : To love his
Children : and hate , and
quell his enemies , are his
own Commandements :
And although the two first
be the greatest , yet is the
third none of the least du-
ties required of us all , as
appeareth by that account
given

The Epistle.

given by *David* saying ,
Psal. 139. 21. & 22. Vers.
speaking to God, *Do not I*
hate them that hate thee ?
And am not I grieved with
those that rise up against
thee ? I hate them with a
perfect hatred , and count
them my enemies. And the
affliction of *Saul* for spar-
ing *Agag* , was a full exam-
ple to us in that case. Nay,
an Heathen could tell *Cha-*
rislaus King of *Sparta* , he
did not his office when he

The Epistle.

forbore to punish dishonest men. I confess, you have fought a good Fight, and declared your selves constant workers in the waie of our Reformation, in our Land of Promise: promised by many, performed by none, endeavored by too few. And I also acknowledge that you are now upon service conducing in order to secure & maintain the model to be perfected in time, from which expedition

The Epistle.

petition I desire not to divert you, (as I have written formerly to his Excellencie the Lord General) but to give you to understand you have left behind you more pestiferous, dangerous, obnoxious, manifest, sedulous, and constant enemies to God, your Countrey, your selvs, and us all, then you have or can have, before you, unless that for sparing those at home unpunished, as you
A 5 might

The Epistle.

might before you went, God will raise afflictions against you abroad, to make you minde your error before you return; And let you know *Achan* and his Wedg must be discovered, and he and his Familie punished at home, before you can expect prosperitie abroad, for it is usuall with God to send forraign Correcters to punish the Magistrates of his People that neglect the punishment of their

The Epistle.

their domestique wickedness. Many were our *Achans*, even most of our Lawyers and Judges, that in the late Kings time Sacrilegiously, and daily by secret briberies, and open extortions, exhausted the treasure of the people, even the whole estates, real and personal, of many thousands of the free-men of *England*, consecrated to the said free-men, and established upon them even by

The Epistle.

by God himself, and his then Viceroy's, and the great Charter of *England*, attesting their agreement thereupon. And this to be done (saith the Lord *Cook* sometimes Chief-Justice) under the Colour of Justice, is the greatest kind of Injustice, and the cunningest Robberie that can be in the World. And do none of you know that we have still such as do the same? in comparison of which

The Epistle.

which and whom, *Achan* was but a sole, fillie, filching thief; and his single Wedg, but a poor trifling theft, nothing valuable to the least share of the meanest undertaker for draining *Lincolnshire* Fenns, and that is nothing in respect of the constant draining of the purses of the rest of that Countie, which also is nothing in respect of the rest of all *England* and *Wales*, more perfectly and constantly

The Epistle.

stantly drained by the Artists of *Westminster*, then any Fen is or can be by Mr. *Henley*, and his partners. Nay, the extorted Fees for *Habeas Corpus's* from the Kings Bench and Fleet, yearly amount to a richer Wedg then *Achans*, which was no more then he could carrie to his Tent of the spoile of *Jericho*. Less loss to the *Israelites* that were at libertie to fight for more, then what is daily
and

The Epistle.

and hourly carried by many of the price of starvings bread, to the severall Chambers of severall *Westminster* Judges; so lossfull to hungrie Prisoners, that manie thousands of them lose their lives by that means, before they can procure their libertie to speak with their Creditors. Have we not had more men lost so in dungeons in *England* and *Wales*, wrongfully imprisoned and murdered

The Epistle.

thered by Judges and Gaolers, then you have lost in the field, hurt by the hands of your enemies? And were not too many of those (so lost under the hands of Gaolers and dooms of Judges) souldiers that returned safe from the mouths of Cannons, and the Swords of enemies, whose widows and fatherless children crie to men in vain for Justice and relief in this case? And shall not
God.

The Epistle.

God hear the crie of the poor, and of the blood of so many *Abels* ? when men will not ? I beseech you lay these things to your hearts, and consider in time ; And let it not be said that any of you accept bribes of Lawyers , to dispence with their bribing , extorting and murthering of whom and as many as they please of your Friends, kindred and Countrey men , whose case another day may be your own, if

The Epistle.

if you timely prevent it not. Som do inform you that they are beneficial men unto you; those are fals counsellors, for what can they give unto you, but what is none of their own? Nay more, but what is your own? forfeited and adjudged unto you amongst the rest of the Commonwealth, and so confessed even by their own mouths, (as I have written and proved formerly) be therefore

The Epistle.

fore pleased to make your
felvs Masters of your own
whiles it is in your power,
or expect it shall be told
you the Virgins Lamp is
out. If your present in-
gagement will not permit
any of you to see this done,
cease not to sollicite his Ex-
cellencie to write to the
Hous, to desire them to put
out of their assembly al mer-
cenarie professors of Law
that poison their Counsell,
no less then their predeces-
for

The Epistle.

fors did the King, making them to do the same things w^{ch} they condemned in him; to the more grief of the People, that were promised Reformation, and are paid in more and worf deformation of their Laws and Liberties then they were before: witness amongst manie more abuses, the Fen Project of *Lincolnshire*, &c. condemned in the late King, yet supported by more Malignant Royalists then

The Epistle.

then in respect of Justice,
he himself could be any,
who are Judges, Parties and
partners of the prey made
by themselves of other mens
Rights, of whose service and
affections, both Parliament
and Army have had no less
experience, then of their
defects and delinquencies:
And move his Excellencie
to desire the House further
to command the keepers of
the great Seal to issue forth-
with Commissions of *Oyer*
and

The Epistle.

and *Terminer* (as by Law they ought to all parties grieved, that shall demand them, directed to such Commissioners as the grieved parties shall nominat, to enquire, hear and determine the extortions, oppressions and misdemeanors of Sheriffs, under Sheriffs, Gaolers, and other Officers subject to popular offence. And lastly, to desire the said House to pass an Act for the settling of the
Law

The Epistle.

Law hereafter (in that plain-
ness, shortness and cheap-
ness) as hath been often de-
sired in divers Petitions of
Londoners and others and by
my last Letter to his Ex-
cellencie, bearing date a-
bout the beginning of this
Month, according to the
propositions of 12 heads of
Law there inclosed which I
understand in *Scotland* were
delivered to his Excellen-
cies hands: So God him-
self shall blefs you and
your

The Epistle.

your Actions, and the people present and future, and even your selves and your Children have cause to rejoice in your work, and be thankfull to God and your industrie for so great a favor. So shall

Your Faithfull servant

*From my Lodging at
Mr. Mündays house
in Clarkenwel, this
29. of July, 1650.*

John Jones.



J U R O R S

J U D G E S

O F

Law and Fact:

S I R !



Having casually
met with and
perused your
printed paper,
styled, A Letter
of due Censure
and Redargution to Lieute-
nant Collonel John Lilburne,
touching his Triall at Guild-
B Hall

Furors Judges

Hall London: in *October* last 1649. I could not chuse but take hold of your first Lines, wherein you say God's strict Injunction obliges us all to *reprove sin* wheresoever we finde it. And thereupon I must tell you, that whatsoever you finde in Mr. *Lilburne*, I can finde in you no less then sin against God, whose name you abominably abuse, to reprove truth, and call good evill, and evill good: against Mr. *Lilburne*, whom you make but your Instrument to play upon, while you wound others through his sides, yea, even those most, whom you flatter most: Against the true and Ordinarie *Judges* of the Land, the *Furors*, whose verdict is the effectual Judgement whereby

whereby all men are judged by their Peers, aswell for their Lives as Lands, without which Judgement, the Law of *England* cannot be Lawfullie executed: And generally against all the Free People of this Common-wealth, whom you endeavour to blinde and enslave by your sophistrie unto usurped Authorities, perswading (as much as in you lyeth) all your Countrie-men to submit, and give away their Lives, their birthrights, Liberties, and Freedoms (for the preservation whereof all their just Laws, and Civill Wars, and especially this last, were made) to the insatiable Tyrannie of their incroaching Impostors, as shall appear following, viz. Page

3a, of your *Letter* (or rather *Libell*) in the second head of those things for which you say Mr. *Lilburne* is liable to reproof, you tell him he laid hold of *divers shifting Cavills, and shuffling exceptions in Law*, which were onely fit to wast time, and procure trouble to the Court; Sir! if Law alloweth Exceptions, called delatories, and lawfull Traverles as well in Pleas for Land as for Life; as you may finde it doth and ought in Mr. *Hornes* Book called the *Mirror of Justice*, written by him in French in *Edward* the First his time, as you may observe in the Margent of the 6th page thereof, and excellently translated into English lately by *William Henghes* Esquire,

a discreet and learned Lawyer living in *Graves Inn*, of which kinde of Exceptions, some be Pleas for Actions and Appeals, the Presidents whereof are briefly and diversly, according to the diversity of their causes, natures, and uses, demonstrated unto you in the said Book, from p. 129. to p. 143. and thence to 146. are Exceptions, or Pleas to Indictments; the summary reason of all which is not as you call it, to waste time, and to procure trouble to Courts, but to bestow time as it can be no better bestowed (especially in Cases of life) then to search out the truth of every Cause, that mens lives be not rashly lost, which cannot be recovered if condemned and

executed, how be it, wrongfully, or carelessly: so, that to be carefull, circumspect, and well-advised in a Court is not to trouble it, for it is its duty to be exercised as it is significantlie derived à *Curando*; that is, a Court of *Care*, or *Cure*, Indifferentlie either, or rather both, as it is Ordained Care to be troubled to hear and determine the Cares and troubles of all men within its verge, for Controversies of Law, (that vex & trouble an whole hundred of Friends and neighbours to see but two of them undoe themselves in suits at Law, or kill one another) with Care to examin them truly, and to Judge them justly; And likewise to cure the Maladie of the Consciences, or at least

least the intemperance of the Litigious spirits of Plaintiffs and Defendants, by ending their differences (as may be most available for their Peace, and the Common-wealth. And as it is the duty of a Court to be troubled to end troubles, so saith Mr. *Horne* p. 58. not to accuse any for matters of Crime and Life, though a known offender, learning of Christ in the Case of *Magdalen*: Nor to countenance Bloody Accusers, but to mollifie their Rigour, as Christ did in the same Case; for Judges that represent God, and should imitate his mercy as well as his Justice, ought not to desire the death of a sinner, but rather that he may return from his wickedness,

and live; and Conveniens homini est hominem servare voluptas: Et melius nullà queritur Arte favor. Nothing more Convenient for Man, or acceptable to God, then to save Penitents, whom he came not to destroy, but to call to Repentance: Nor is it the part of a Judge (as in p. 66. of my said Author) to condemn one for the same, or the like offence, as the Judge knoweth himself guilty of. And therefore Exceptions are lawfull, to the Power of a Judge, as in p. 133. to his person; as in p. 135. and to his condition, as in p. 59. And those that are granted to be lawfull to be propounded against his Power p. 133. are the same in substance, which you say Mr.

Lilburne

Lilburne made use of, & yet call them *shifting cavills*, & *shuffling exceptions*, & reprove him for using them in defence of his life. I pray compare them together, & then consider what and whom you reprove; & you can not chuse but finde that for the matter, it is not a *shifting cavil*, or *shuffling exception*, but the *solid fundamentall Law of England*, affirmed by all men that truly understand it, to be most Contentaneous of all Laws, to the Law of God; And for the Persons, it is not onely *Mr. Lilburne* that desired thereby to preserve or prolong his life, but all the sage makers, & religious observers thereof, whereby you perswade all your Countrymen present & future, to disesteem such exceptions (even to save

B 5

their

Furors Judges

their lives) and consequently to cast themselves away upon the wils, and hast of Commissarie Judges, who may be the onely, or chief Accusers, or Adversaries the Party questioned for his life can have; which for any such Partie to do, were to be more then mad, and even the Author of his own death, and of Gods Wrath upon his soul, which if he so wilfullie lose, what is it to him to gain a world in lieu thereof? And why do you (more falsly then *Caiphus* that told one truth in his life unknown to himself) offer to perswade us to becom willing to sacrifice our selves one after another, to the lying bloody constructions. of that Generall, and true Position

Salus

of Law and fact.

II

Salus Populi, &c. The Health of the Nation; is the chiefest Law; which you vaunt to be the empress of all your Maxims, whilst you construe it to the destruction of the Nation (as they are very sensible thereof,) and make it onely healthie to rotten Commissarie Judges, and corrupt Lawyers, whom you make the sole Judges thereof; for what Christian can bee so senseless as to believ, or conceiv, that the sacrificing of any one man in that manner onely, for the suspicion (perhaps of no more then the Judge that findes himself most guilty of the Cause) as of being more able then another to raise or cause War against us; can avail us: For Sir! God delighteth not in

Furors Judges

in bloody and dead sacrifices;
but in our humble, penitent,
and lively Prayers, who are,
or ought to be his living sacri-
fices; And he that is as well the
Lord of Hosts, as the God of
Peace, is our loving Father,
and he will heare us when we
call upon him in his Sons
Name, and open his gate of
mercie unto us when we knock
as we ought, and whatsoever
good we ask him in that name,
he will not onely give it us,
but moreover strengthen us as
he did *Jacob*, to wrastle with
himself, and to overcome his
Anger, which an Heathen
could understand and say:
Flectitur iratus voce rogante
Deus: Gods Anger stoopeth
to his Childrens Prayers: And
none but he can raise any warre
against

against them ; nor will he further then their sins deserve his punishment ; and so farr ; *Is there any evill in Israel , but it is he that doth it ?* What do you therefore but shew your self diffident of his mercifull omnipotence , and rob him of his Glory , when you attribute his power to man , to make War or Peace , and make your self wiser then he , when you think to prevent his will by your policie ? and stronger then he , if you could destroy whom he would save ? And therefore (saith *Melancton*) Men are but fooles *Vinculacum tendunt imposuisse Jovi* : when they suppose they can Chain the Dietie , And who can but see , that if it be granted you , that every
Free

free man of *England*, whom you, or a Commisſarie Judge, or any other, as bad, ſhall ſuſpect, or be pleaſed to accuſe for ſuſpition, of what you think good to invent, you may accuſe whom you will, and hang whom you liſt, and leave none to live, but at Lawyers diſcretion, whilst the truth is, that ſo farr as any one man or more of any kind of men, whatſoever, can be called or accounted raiſers or cauſers of War in *England*, the Lord *Cook*, Mr. *Herne*, and other ſound Lawyers tell you they ever were, and will be corrupt and mercenarie Lawyers, that ſell, delaie, and denie Juſtice, and the benefit of the great Charter of *England* to the People thereof; the due puniſh-

punishment of whom, & of all
 Sycophants that sooth them up
 in their Errors, would be
Salus Populi; for they are a
 considerable Army that have
 over-powred us these 500.
 years, Hyperprelaticall Spi-
 rits; Domineering Nimrods;
 Undermining Pioners, (so
 that what was said of Rome
 since the Popish Prelacy ru-
 led it, may be said of England
 since Lawyers overswayed it,
viz. Servierant tibi Anglia
prius domini dominorum, ser-
vis servorum nunc miserranda
subes. O thou that wert the
 Lady of Lords, art the Slave
 of Slaves.) And a subtle and
 viperous generation that add
 Policie to their Power, to
 gnaw their Mothers bowels,
 and use to make dissensions
 and

and Factions between even their own Brethren, to make work for themselves to reconcile them, or most commonly by the strength of the weakest, to destroy the strongest, till they be able to Master both, and by right seldom, and wrong constantly, to make and keep themselves rich, whosoever be poor, to accuse and condemn all their superiors for tyrannie, to make way for themselves to be the onely superviving supreme Tyrants, and compleat Dionysians. The onely Monopolizers of Law, to sell, delay, and denie Justice to the Free Men of *England* their Slaves, at their wills and pleasures in their Congregational Exchange *Westminster Hall*. And
whereas

whereas you say those *shifting*
cavils & shuffling exceptions wch
Mr. *Lilburne* made use of, to
waste time, and procure trouble
to the Court, were far
from making any defence for
him: I pray you what defence
could he desire thereby but to
save his life? And was not that
done by the Verdict of a Jury,
that heard what he said for
himself, received all the E-
vidences that were given a-
gainst him, and were Char-
ged and sworn to give their
Verdict according to their E-
vidence: was not that Ver-
dict confirmed and ratified by
the right Honorable the
Councell of State, by the as-
sent of the most Honorable
and Supreme Court of Parlia-
ment? without which ei-
ther

ther by an implicit generall
 Warrant, or a speciall Ex-
 press: no man can be so mad
 as to think they would inlarge
 him? was not this as Full and
 fair a Triall as Mr. *Lilburne*
 could wish, or any man
 (Questioned for Treason)
 had these 100. years, or since
 Juries, (that understood Law
 no better then you) were con-
 tent to be baffled by Commis-
 sarie Judges, and give what
 Verdict they pleased, as well
 for mens lives as their lands:
 did not his Exceptions and
 pleadings (whatever you call
 them) come near enough
 (how ever the Court liked
 them) to make him a suffici-
 ent defence in that mater?
 doth it not follow, that by
 your said saying, you make
 your

your self a naked lyar? and
 can so apparent a lyar be
 a Creditable reprovcr of sin?
 the Devill he can as soon:
 doth it not further follow, that
 Mr. *Lilburne* hath his Action
 of the Case against you, for
 questioning him for the
 same offence that he is acquit-
 ted of by so due a Course of
 Law? Doth it not moreo-
 ver follow, that by traducing
 that Verdict and acquittall,
 you consequentlie traduce, not
 onely the Jurie, but also the
 Councell of State, and the
 Parliament that Confirmed
 the same as aforesaid? And
 are not you therefore lyable,
 not onely to the severall Acti-
 ons of everie Inror, but also
 of *Scandalum magnatum*?
 But what need you care, you
 are

are too cunning for them all, in Concealing your name at large from them whom you slander at large, and send your Book to them with a *sine me Liber ibis in urbem*; so that they know not when, where, or how to finde you out by that uncertain notion, or mark of *H. P.* Which for any thing I know, may signify some Soap-stuff, as well as any mans name; but take heed least *John* smell you out, and contemperate you in his Compounds for some simple corrosive ingredient which he useth (not to any intent of malice, but to eat off som of your proud flesh, and not to destroy any sound part in you, as you say in the title of your Book you use your reproof to him)

him) to make a speciall kind
of soap to wash the brains of
such Orators as perswade
men to becom such fools,
as to make no use of Lawfull
exceptions against their Jud-
ges (especially Commissaries)
to save their lives: and the
tongues of such Sycophants
as under pretence of reproving
the meanest, and weakest
sort of sinners; approve, and
improve the greatest and
strongest kinde of Murtherers,
Traytors, Perjurers, &c. viz.
Commissary Judges in gene-
rall; in their practise at large.
But more to the matter, where
you say in your 5th head, in
the same 3^d page of your Li-
bell: The 5th thing you say
deserveth a keen reproof of
all honest men, was Mr. Lil-
burnes

burnes assaying the sinceritie of his Jury: and page 21. you say he promoted his 12. men, &c. and caused them to imploy their new given Jurisdiction, onely to the advantage of the giver. Truly Sir I must confess, that if Mr. *Lilburne* assailed the sinceritie of his jury, he was to blame: but I cannot find by any thing you prove, that he did so, for the Clamor of the People (who were not his disciples as you belie them and him too) were not in his power to stop, more then in yours, or mine, had we been there: for if they would not obey the Crier of the Court, they would not have obeyed us more then him, who desired (as he needed) rather to be heard, then disturbed.

disturbed, and distracted with
Clamors. And for his blandishments to his Jurie, good
Language became him to give,
and them to receiv, but not
such adulations as you give all
Commissary Judges: And to
use all the lawfull means he
could to inform them, and all
his Auditors that knew him
not, nor his innocence in that
Cause, and merit in others;
and thereby to prolong his
life in the Land which the
Lord his God hath given him,
and to keep himself a living
sacrifice to, and for his God,
untill it please his Dietie to call
him to his mercy by the Ordinarie way of common death,
to inspire him to fight again
his Masters Battell and
the Countries service: whereby
he

he may dye an extraordinary death, more to his Masters glory, and his own honor, then by casting away his life (to becom a dead sacrifice to the malice of men, whether Commissary Judges, such as you plead for; or other flattering Sycophants, such as you make your self). I conceive to be no fault in Mr. Lilburne. In the next place, where you say Mr. Lilburne promoted his 12 men to a new Jurisdiction; I am sure, that is another Lie of yours, for you may read in the Lord Cokes Institutions upon the 35 Chapter of *Magna Carta*: That County Courts, Court Barons, Sheriffs-Turnies, and Leets, were in use before King Alphreds time.

In all which Courts the Jurors were the Judges, & their then untraversable Verdicts were the Judgments in all Causes: And Sheriffs and Stewards, who were the Kings Commissary Judges in their Turnies, and Leets, as now they are the States, were, and still are but the suitors Clerks in Counties, Hundreds and Court Barons, to enter their Judgments, and do execution thereupon by themselves and their Bayliffs, as publique servants, or Ministers of common Justice to their Jurors, and the rest of the Common Wealth: See Mr. Kitchen Fo. 43. yet were they as absolute Commissary Judges by vertue of their Writs, when they have them for matters above

C

above 4s. as the Judges at *Westminster* ever were, or can be by their Commissions : And all Common Pleas between Party and Party (and the King, Queen, and Prince were accounted but Parties as other Plaintiffs and defendants in such Pleas) were holden in the County Court from Month to Month, untill for the ease of the People, especially husband-men to follow their business; The King with their assents divided the view of *Frank pledg* from the Sheriff who by all the Peoples assent in Parliament 9. Ed. 1. was to be thence forth assigned by the Chancellor, the Kings Commissiary Judge in his Turnies, (called before the Kings own Turnies) to see Justice

Justice done from County to County; And all the free pledges of every County together, once every 7. years, which is since to be done by Sheriffs twice yearly) and gave them to Lords of Manors, so, that their Tenants and Resiants should have the same Justice in their Leets and Court Barons, as they had in the Sheriffs turnies and County Courts at their own doors without any charge, or loss of time? And for the same reason (saith the Lord Cook in the same place) Hundreds were divided from Sheriffs, viz. that none should be troubled further, or out of their Lords Court at all; at which Courts (saith Mr. Horn p. 7.) Justice was so done,

C 2

that

that every one so judged his neighbor by such Judgment as none could elsewhere receive in the like cases, untill such time as the Customs of the Realm were put in writing. And as the County Courts, Hundred Courts, and Court Barons were [of one Jurisdiction, so were Turnies, and Leets, and so all of them are, and ought to be still; therefore you must consider that there be three sorts of Jurisdictions, *viz.* *Sovereign; assigned, and ordinary*: of these you may read in the *Mirror* ? p. 7. in these words, *viz.* It was assented unto, that these things following should belong to Kings, and the right of the Crowne, *viz.* *Sovereign Jurisdiction, &c.* which is
 now

now fixed in the Keepers of the Liberties of *England*, by vertue whereof among other things all Writs, Commissions, warrants, Commitments, & Liberates or discharges run in their names as they did in the Kings, so that none are Imprisonable, or dischargable, but in their names; consider therefore again that this assent was the Peoples, whereby Kings, (who before, and without this assent, were not Kings, but ordinary men, that could have but ordinary Jurisdiction as others) had Sovereign Jurisdiction, as now the *Keepers of the Liberties of England* have by the Authority of Parliament, which is the Representative of the People, given them by the People

with a reservation of their ordinary Jurisdiction, viz. reserved in, by, and unto them in King *Edward* 1 his time, and ever before and since; by reason also of which sovereign and Royall Jurisdiction, as you may further read *Mirror*, p. 287. Kings were called and counted (as now the Keepers of the Liberties of *England* ought to be) fountains of Justice, and ordained because they could not be alwaies every where themselves, as *Moses* did by *Jethro's* Councell, Institute Captains over hundreds, Fifties, &c. and now the Keepers of the Liberties of *England* do, and must ordain Commissary Judges, viz. Commissioners or Judges, by their Com-
mission

missions or Writs to supply their presence, and do their office in their stead, which in Courts, is but to give their assents to the verdicts, which are the judgments of Freemen upon their Peers, whereby those Judgments being so compleated, the executions thereof did do, and must run in the name of the Sovereign Jurisdiction of the State; And so Justice may be administred in all places, in their personall absence, who are to be accounted present in their Commissaries, who no more then their Masters can be counted Iudges of the people, because parties against them, and so made and named in, and by all Indictments, Writs, &c. as aforesaid. Observe

again, that Commissary Judges, being ordained by their Masters to do Justice; if they fail of so doing by their partialitie, wilfullness, or any other consideration, as *Pilat* (who was *Cesars* Commissary) and others did (whom you aptly compare to some of them) then they have no jurisdiction, or ordination at all, so that they may be disgracefully, and that lawfully pulled, and thrown out of their abused places: but in civilitie and respect of their Masters may be better forborn, and referred to their Censures. And what is dissenting, or not assenting to Jurors verdicts, but a denial, which is more then a failer of Justice, for the speeding whereof they must have
no

no negative voice: for ordi-
 narie Iurisdiction that was the
 supreme i that gave the Sove-
 raign (which is superior to e-
 very singular person) to Kings,
 (as now to the Keepers of the
 Liberties of *England*) is still
 the superlative Iurisdiction
 beyond all comparison, that
 can be inferior to no authori-
 tie, but Gods, that gave it
 to his people, to his Children,
 not to be given by them, to
 any above them in their gene-
 ralitie, but himself, from
 whom they have received,
 and to whom they must re-
 store themselves and all that is
 theirs, but to be contrived,
 and substituted by them unto
 the worthiest men amongst
 them, to be employed for and
 under them, as they might

C 5.

finde

finde most convenient for their worldly peace and subordinate government; to which end they deputed Kings, as now the Parliament hath don Keepers of the Liberties of *England*, reserving so much of their ancient ordinary Iurisdiction to free men, that none but such may be Iurors, and none but such may be their Judges for their lives, lands, and estates: And therefore as the Keepers of our Liberties are subordinate to the Parliament, so are their Commissaries to them, and both in their Iudgments, to the verdicts of the Iurors, which is their true saying of the whole matter, as well for Law, as Fact; and so is the full Iudgment of it, both in
Law

Law and effect, wanting onely the assent of the Sovereign Jurisdiction, which is the onely party sup posed to be against the party guiltie, or so reputed, and hath that Majestie (or if well considered, that vassalage) given unto it, as to do, or command to be don Execution; which, if the hangman refuse upon the Sheriffs command, the Sheriff himself must doe; and if he refuse, or neglect, the Commissarie Judge must, for as there is a Writ *de procedendo ad iudicium*, and an *Alias, plures*; and Attachment to compell him to give his judgment, or, more properly, his assent (as aforesaid) to the Juries verdict: So that if he delay, denie, or faile to do,

or

or cause Execution to be don,
there is another Writ *de executione Judicii*, and an *Alias*,
Plur', and Attachment upon
that, to be had against him;
whereupon, if a Commissary
Judg must be Attached for
not giving his assent, (com-
monly called his Judgment)
to a verdict for Fellonie, &c.
or having given his Judgment
to the verdict, shall denie or
delay execution, except in
special things hereafter touch-
ed, let him not onely be an
hangman for his Fellows, but
be hanged himself; for such
was King *Alfreds* Judgment
in all Cases of injustice in his
Commissary Iustices, as you
may read in the *Mirror* from
p. 239. to p. 245. when he
hanged 44 of them in one
year.

year. But it is observable how Commissary Judges for Gaol-deliveries do now a dayes use in the conclusion of their judgments upon Fellons; convicted by luries verdicts, and their assents, to command Sheriffs to see execution, and so to end their Sessions; and get themselves gon out of that County with all expedition, and let the Sheriff and his hangman agree as they can bargain, for doing the execution, while the Commissary imposter proceedeth in his Circuit, attributing all that he findeth the people conceive to be injustice, to the Sheriff, or Jury, or both, but calling all judgments and proceedings (that are pleasing to the people throughout his perambulation

bulation and the Ambit thereof, even the Cirquit it self,) his own; because the people assented to such Commissions, as the devill doth the world his own, because God gave him leave to compass it; And as proud are such Lords justices of their Lordships in a kinde, as he can be of his; yet in right ought to be accounted but servants to their Masters, as he to his. And therefore whereas you say p. 24. though the verdict be given in upon the whole matter, and so inclose Law as well as Fact, yet the binding force of the verdict as to matter of Law, may be derived from the sanction of the Judges, not from the Jurisdiction of the Inquest: And it may well be supposed

supposed that the Jurors may err in a matter of Law, in which case the Judges must alter the erroneous verdict by a contrary Judgment, and that Judgment questionless shall nullifie the erroneous verdict, not the erroneous verdict the Judgment; whereby it plainly appears, That in a verdict upon the whole matter, there is no new Jurisdiction acquired by the Jurors in matter of Law, nor left to the Judges; forasmuch as the Judgment stands good, and obligeth not as it is rendred by the Jurors, but as it is confirmed by the Judges. Can a Man that would seem so Cornucopiously learned and wise as you do, be such a fool, as to make such a medley of nonsense; surely should

should you but tell such a confused storie in one of the Inns of Chancerie, the puniest Atturney therẽ would hilt you out of his mooting School. What error can be in the substance of a true saying, but in the form there may, and that the Iudges and the Clerks assume to be their office to make in Latin, and such is the form, and Latin they usually make thereof, that every word, or second are commonly erroneous, and that of purpose for themselves, to make work for themselves, by spinning the Cause in suites and vain pleadings, somtimes to seven years time, that might have been begun and ended in a day, and by beggering both parties to inrich themselves by damnable

nable Fees and extortions, all that while? Can the verdict which is the true saying of 12. Men upon the whole matter of Law and Fact, be alter'd by a contrarie Iudgment, (as you expressly say you can) but that must be fals and an untrue saying, for what can be contrary to a true saying, but a fals? And which of them ought to be altered? you say the verdict. Whereupon let all men judg whether you are not a plain liar therein, but suppose (since you goe by suppositions) that the saying of the Iurors is not true, and therefore no verdict, such as Iudges receive, or rather arrest, and cause to be given them for verdicts by Iurors impanniled by Sheriffs, by Iudges

Judges directions for that purpose. Can the Confirmation of a Commissary Iudg, by his Iudgment make that good? Its a Maxim in Law, that what is naught in the *foundation*, can never be made good by *Confirmation*: but I confess many an honest man is hanged by such supposed verdicts, and devilish Iudgments. Can such Lies be called verdicts, or such Iudgments be called true; more then you can be called a just reprovcr, or a due Censurer, that reprove truth, and justifie lying? Can the Devill be a worse Censurer or Reprover? What Iudgment (mean you) stands good in Mr. *Lilburnes* Case, who had no Iudgment at all passed upon him, but that verdict

verdict that saved him, and the assent of the Councell of State, and Parliament that confirmed it? And what verdict or Judgment do you finde fault with in all your Book over but that? Surely you were in a frenzie when you wove this stuff not so good as *Linsey Woolsey*; but if you would know what should be done, in case a Jury should give in an untrue saying, instead of a verdict? (that being made to appear to a Commisary Judg by the Partie greiv'd, or his Councell learned to be undeniably true; such a seeming verdict, in case of life, or land of Free-hold, is traversable; as also any verdict made defective, informed by Lawyers as aforesaid, and

and thereby sounding defective in matter, and so counted erroneous by them that made it for that purpose, to linger the matter for their own gain, as you may read in *Mr. Hornes Mirror*, as aforesaid, and in the Statutes of 41. *Edward 3.* fol. 5. and 6. of *Henry 7.* and 19. *Henry the eight.* Howbeit for bloodshed in Leet there is no traverse; because the fact is a manifest wrong, and if laid upon a wrong person, he may have his Attain against the Jury, and recover treble damages, by the verdict of 24 better Jurors, which remedie every party wronged by any Jury hath besides his Traverse. And in case of life, which may be lost (by the malice or ignorance

of som Juries purposely returned by som Sheriffs for their own ends) if executed according to their saying, and is never recoverable by Law: The Commissary Iudg upon true information and proof thereof, and not otherwise, ought to stay Iudgment, or execution, or both, untill he can likewise inform the Keepers of *Englands* Liberties of the truth of the Cause, and reprieve the Prisoner untill their pardon or Tollerance be obtained for him, as was wont in the Kings time in like cases, so, that afterwards the Prisoner may have his Attaint as he ought against such a Jury, whose Iudgment is terrible enough for example to others, and sufficiently satisfactory

factory to the Party, viz. to repair his wrong, and pay him treble damages: To forfeit their lands and goods to the Lord of the Fee; to have their houses demolished; their woods rooted; their bodies imprisoned during their lives. And Jurors ought to try Attaints without Fee *Ex officio*, as you may read in the *Mirror*, p. 64. And so let so much serve in this place to inform you that the Jurisdiction of Jurors is to be Judges and Verdictors of all controversies given them in charge upon their Oaths, as well for matter of Law as Fact; and as antient as, and more permanent then Commissary Judges; for when Commissary Judges had abused their places, so that they

they were beaten out of them, and Civill Wars therefore grew between Kings and people before *Magna Charta*: and since, untill the said second agreement made between *Ed.* 1. and them, whereby Coroners and Sheriffs were reordained (for they had been ordained before, as appeareth by *Magna Charta*, and long before that) to defend the Country when they were dismissed of their guards, &c. for till then guards continued for the breach of *Magna Charta*, begun by *Hugh de Burgo's* means, and then Captains and Leiutenants became Sheriffs, Coroners, &c. and Centinels, Bailiffs, &c. But alwayes the Free men judged their neighbours constantly;
And

And therefore Mr. *Lilburn* neither did, nor could give his Jurors any new Jurisdiction, nor promote them to any preferment more then of right they had, (as you most falsely and maliciously, however ignorantly accuse him, and abuse both him and them to introduce the rest of your untruths which follow, for next you say, that thereby you perceiv his Levelling Philosophy is, that Judges because they understand Law, are to be degraded, and made servants to the Jurors; but the jurors because they understand no Law, are to be mounted aloft, where they are to administer Law, to the whole Kingdom: the Judges because they are commonly gentlemen

men by birth, and have had honorable education, are to be exposed to scorn; but the Jurors, because they be commonly mechanick, bred up illiterately to handy Crafts, are to be placed at the Helm, and consequently Learning, and gentle extractions, because they have been in esteem in all Nations from the beginning of the world til now, must be debased, but ignorance, and sordid births must ascend the Chair, and be lifted up to the eminentest Offices, and places of power: Coblers must now practise Physick in stead of Doctors, Tradesmen must sit in pulpits, instead of Divines, and Plow-men must hold Sessions instead of Justices of Peace. Sir, I shall not
D meddle

meddle with Mr. *Lilburns* Philosophy, but shall conceive it more reasonable, and therefore more tollerable then your sophistrie, seeing it appeareth by your own setting forth, his endeavour was not to degrade Judges because they understood Law, but to inform them better, because he conceived they understood not Law in his Case, till they would be pleased to be better instructed by his learned Councell, which (as he alledged divers presidents for) might have been as Lawfully allowed him, as those that had them, for (as saith Mr. *Horn* 65) they are both necessarie and allowable to such Clyents as understand not Law themselves. And for none so necessarie

cessarie as for their lives I think) neither doth it appear to be his purpose to make Judges servants to Jurors , because they understood no Law, but to remember them to be servants to their own Masters, to give their assent to the Iudgment of Jurors that he conceived did understand Law: And what wonder were it that these men, who by themselves and their predecessors did put the Laws of England (that had been in the English tongue intelligible to all men whom it concerned) into uncooth Gibberish of their own making, should understand their own contrivance better then others who do understand Latin, French, Greek and Hebrew,

better then most professors of
 Law do, and English as well.
 What subversion of the Law
 can be more then so to trans-
 late it, that those whom it
 most concerneth, can neither
 understand it, nor be excused
 by their ignorance in not un-
 derstanding it, and so make
 it their net (whose libertie it
 should be) and all to the end
 that those whom it concern-
 eth least, or not at all, may
 elevate themselves by means of
 so unlawfull and prestigiato-
 ric, and illiberal an Act, (so-
 thing so harmles nor so
 free and cheap as *Canting*)
 from little or nothing to great-
 ness, from *Lourdneys* to
Lords. And what can the
 subversion of the Law (espe-
 cially such a subversion) be

less then treason against all the English Nation? But truly Sir! if Mr. *Lilburn* should desire that Judges should be exposed to scorn, because commonly Gentlemen by birth, and honorably educated, I know none that will agree with him in that, nor can I believ it to be his desire, that is known himself to be a Gentleman born, honorably extracted, Civilly bred, martially disciplin'd, and very rationally endowed beyond the capacities of ordinarie Lawyers. For learned, vertuous, and upright Judges howsoever born or bred, are to be honored for their vertue, because *Honor est virtutis pramium*, Honor is the reward of vertue, and the better their births, and educations

educations be, the more fair
 and fortunate are their Orna-
 ments: but *Quamvis Cesare-*
os enumeratis Avos: though
 descended of *Cesar*, and e-
 ducated in his Court: They
 are not all of *Israel* that are of
Isaac: And golden Calves
 are not to be adored. And if
 corrupt and vitious, you say
 Gods strict injunction oblig-
 eth us all to reprov sin where-
 soever we finde it: behold
 how you contradict your self,
 when you would have all
 Judges, because wel-born,
 because well bred (though as
 wicked as *Pilat* or *Caiaphas*,
 as you say elsewhere) to be ho-
 nored by all men: And yet
 you would have sin to be re-
 proved by all men wheresoever
 they finde it, *oportet mendacem*

esse memorem: recover your self by som distinction, or reason of policie, or elf you are faine deep: *Tende manus Solomon, &c.* I remember you say *Iehojada* did forbear *Athalia* untill he gained more abilitie, and better opportunitie to accomplish his desires against her; he conceiv then you would have none to reprov Judges but your self; nor will you, till you have more advantage of them then you have yet; so the respite you give, is but till you have more advantage against them; not unlike that Iesuiticall reser, which *Ignatius* never taught his Disciples, but they learned it of his Master the devil: And therefore let the King of Spain take heed of it,

for the Pope and they wait but
opportunitie to swallow his
Catholick Majestie into his ho-
mies bowels, when they
preach one *vicar* in earth for
one God in heaven: And let
Judges take heed of your flat-
terie which they may discern
by your obligation, to reprove
sin wheresoever you finde it
and by your forbearance to
reprove Judges (though never
so sinfull) untill you get op-
portunitie, and by your ap-
pete to fall down and worship
them, all without distinction
of good or bad; when some of
them know themselves no wor-
thier to be worshiped then he
that our Saviour bad get be-
hind him. And what shall
they be the better for your re-
proof, if they dye before they
have

have it? when you ought to speak, *de mortuis nil nisi bonum*; nothing but good of the dead; therefore *Paul* more graciously reproved *Peter* to his face, when and where he found him faulty. As for Jurors placing at the Helm because mechanick, &c. you touch not Mr. *Lilburn* for his Jurors (as all others in *London* ought to be) were impaneled by the Sheriffs of *London*, or their secondaries, who knew them to be honest lawfull men, such as the precept required, and had the Judges any cause to suspect, refuse, or chang them, they had done by them all, or ten at least as they did by one of them, take in others for them: And you say that Mr. *Lilburn*

D^s excepted

excepted againſt them all, and deſired to be tried by a Jurie of *Surrey*, where he lived when the Fact was ſuppoſed to be committed, (and if by him, liklieſt to have been there) where a Jurie might be had of no mechanicks, but God, who (as you ſay elſewhere, and that truly, as the devil, to be believed in more, uſeth to tell ſom truths) is preſent in all Courts, was really, though not viſibly preſent there, and had fore-ordained better for his ſervant, then he knew how to deſire; A Jurie of Mechanicks, whole perſons or Eſtates I know not, but their carriage and Reſolution in that matter declare them knowing and underſtanding Men, Confirmed in their

their Verdict, first by God himself then doubtlessly not onely present in the Court, but in their hearts and consciences: And afterwards by the *Councell of State* by assent of *Parliament*: A President for Jurors, and a memorable example of undantable, immovable, consciencious Judges of life and death, for the present, and all future ages to imitate: yet traduced by you, and in them God himself the Author of the work, and the State, and their Council Cooperaters therein. And no mervel for al that, since you cannot be content to calumniate all that had a hand in the matter, but also the generalitie of all the constant Inhabitants of all Cities and Corporations.

rations in *England* and *Wales*, of whom not one in a Million, ever knew Mr. *Lilburn*, or heard of his Cause, all Mechanicks: For what Trade, or mysterie of Merchandize can be, but hath its original from some handicraft? What Merchant so easie or careless, but sometimes useth the help of his own hand, or servants to measure, or weigh his commodities, for which he ventureth his life, or others, and his Estate to boot, to fetch them from the Indies; and why should he scorn to put his finger to retail them to his customers by true weights and measures? And so I conceive writing is but an handicraft taught a Lawyer before mootings, and necessarie to

be used by him when he is a
Judg, whose (dutie as the
Lord Cook upon the 29 chapt.
of *Magna Charta* saith, is, *de-*
cernere per Legem quid sit
justum: to discern what is
just by the rule of Law; and so
to make the Law his rule, his
line, his measure, his weight,
his yard and ballance, which
(saith the same Author in the
same place) is called *Right it*
self, And *Common Law*; be-
cause it judgeth common
Right, by a right line, which
is the Judg of it self and its
oblique. And in another
sens (saith he) the Law is
called *Right*, because it is the
best Birth-right the Subject
hath, whereby his goods,
lands, Wife, Children, bodie,
honor and estimation are pro-
tected.

tected from injuries, and for
 a better Inheritance cometh
 to everie one of us by the Law,
 then by our Parents: but
 when appropriated by Law-
 yers to their own constructi-
 on and benefit, how is it to
 be called common Law?) and
 when a Commissarie Judg like
 Pluto's Radamanth, maketh
 his will his Rule and line, and
 thereby squareth and mea-
 sureth the Law as he pleaseth,
 and as *Virgil* describeth him:
Grosius hic Radamanthus habet
durissima regna, &c. Casti-
gatque Auditque dolo, subi-
gitque fateri leges fixit pre-
cio atque refixit, &c. First he
 punisheth, then he heareth,
 and compelleth to confesse,
 and so maketh and marreth
 Laws as he pleaseth for his
 profice

profit : such are the Commissaries I desire to reprov, and you to flatter : but I wish them to observ *Crysippus* his Picture of Justice described in a Latin Dialogue thus, viz.

Quæ Dea? Justitia : at quid torva lumina flectis ?

Nes ia sum flekti, nec moveor pretio.

Unde genus ? Cælo. Qui se genuere Parentes ?

Mi Modus est genitor, clara fides Genitrix

Auriû aperta tibi cur altera, & altera clausa est?

Una pa'et justis, altera surda malis.

Cur gladium tua dextra gerit? Cur læva bilances?

Ponderas hæc causas, percutis illa reos.

Cur sola incedis ? quia copia rara bonorum est;

Hæc referunt paucos secula Fabritios.

Paupere cur Cultu ? Semper justissimus esse,

Qui cupit, immensas nemo parabit opes.

Englified

Englished by me thus.

What Goddess art thou? Justice:
Justice: why so stern?

No force shall make me bow;
nor bribe me yearn.

Whence sprung? from heaven.

What parents gave thee
breath?

Indifference was my Father,
Mother, Faith.

Why open'st one ear, shutt'st
the other still?

One hears the good, the other's
deaf to ill.

Why right hand sworded?
scald the left appears?

One weighs the Cause, the
other cuts guilts ears.

Why art alone? because few
good there be;

Scant one *Fabritius* in this
age we see. Why

Why poor in Robe? because
 who would be just,
 No vast estate or Wardrobe
 purchase must.

But I observe that as the
 meanest handicrafts man,
 when he groweth rich, turns
 Merchant, that he may live
 Lazier, and gain more by buy-
 ing and selling merchantable
 Commodities, then by his
 labor, yea, and the craftiest
 Merchant of all; or as lately
 the poorest Schollars being at-
 tained unto Wealth, became
 Bishops by the same means;
 and for the same reason; yea,
 and the precisest formalist of
 all, so the simplest mooter in
 the Inns of Chancerie, being
 being past his Apprentiship,
 admitted to the bar, and but
 botching Journeyman in the
 trade

trade of Law, furnished with money friends and fortune, proceedeth Sergeant at Law, and ascendeth som Chair, or Bench of Judicature in a day, and declareth himself present by the Pragmaticalest Judg of all, yet but a Commissarie Judg, such as you extol in the generall; and I except against in som particulars, as for making the Law a mercenary trade, or a merchantable commoditie, which ought to be free and liberall to all men; and in assuming a Mastership therein, whereas he is and ought to be but a servant to the Common-wealth; yet, even a Clerk (though you seem to repine at it) to say *Amen*, viz. to pronounce his Masters assent to the verdict

of Jurors who by their ordina-
 rie Jurisdiction are the abso-
 lute Judges of their Countrie,
 as before is proved. Yet shall
 I be content to follow your
 Follies a little further for your
 better satisfaction touching
 Mechanicks; who buy and
 sell but what are vendible and
 merchantable wares, and law-
 full for them so to do, which
 if by unreasonable penni-
 worths, their reasonable
 Customers may take or leave
 as their occasion requires, and
 reason guides them: whilst
 Lawyers Clyents must buy
 such Law as they can finde, at
 such rates as they can get at
Westminster, or perish in
 their Causes: different from
 those times, when Mr. *Horn*,
 and others tell you, they had
 better

better brought to their own
 doors with little charge, and
 less pains: and when to see it
 so administred and executed
 by Sheriffs, Recorders, and
 other Countie and Citie
 Judges, that were the Kings
 Commissaries in their respect-
 ive places, and derived their
 Commissions and authorities
 as well as any at *Westminster*
 ever did, or can, from the
 same fountain, viz Kings and
 people, so that (as the Lord
 Cook saith) *Omnis derivat*
potestas habet eandem juris-
ditionem cum primitiva
 their jurisdictions were the
 same within their precincts,
 as the Kings at larg; yet Kings
 went along with their Com-
 missaries, or rather Deputies,
 for their own Bench, from
 Countie,

Countie to Countie, once every seven years, to oversee, and examin how Justice was distributed to their Subjects, and to give their Royal assents to the verdicts of Juries which were not assented unto by the ordinarie Countrey Commissioners since the last Size: which Commissioners therefore onely, and not the Countrey in generall, (as now to Assizes, *nisi prius*, and Gaol deliveries) or so much as the Jurors were called, or troubled to bring in any account of what they had done since the last Size, but those Commissarie Officers onely for that they had not done were charged to bring in their Records, whereupon such verdicts as were found unassented unto and compleated

compleated by them, might
 be assented unto and perfected
 by the King himself, or his
 Commissarie Judg, or depu-
 tie, called his chief Justice of
 his own Bench; or by the
 Justices in Eire, who went
 somtimes without the King, or
 any of his Justices, who when
 and where they came, had
 the prerogative of all Courts
 during their stay, which was
 but for short Sessions) & gave
 forth procelts of execution up-
 on them, and medled not
 with any mors Causes, but
 onely within his verge, by the
 verdicts of Jurors inhabiting
 within the compass, as you
 may read in the *Mirror*,
Lambert and others at larg.
 And why now all must come
 to *Westminster* four times
 yearly;

yearly; and no cause, whether over or under 40s. can be ended in any part of the Kingdom but there; for if under *Mutunus* shall lift it over, and all under colour of that Chapter of *Magna Charta*, which saith Common Pleas shall not follow the Kings Court (as his Bench, Chan-*celor*, and his *Exchequer* then did and ever might) but shall be kept in a certain place; which came to be *Westminster-Hall* since it was the Kings pleasure to have that Court (which was their pre-rogative superindendent Court of Common Pleas, viz. for Appeals in such Pleas, by such as found themselves grieved by partialities or delaies of their Countrey Commissaries, un-
to

to that Court) kept in their own Hall, of their then dwelling Mansion, as it continued until *White-Hall* came into the hands of King *Henry 8.* by Cardinal *Woolsey* his delinquencie, which (pleasing him better) he made his Court, and gave not onely *Westminster-Hall*, but also all the Palace of *Westminster* (that his Ancestors from *Ricard 1.* him, contented themselves in dwelling) to be the Consistories of all his Courts, where he found it chergable to move them, though he and his Successors gained least by them. But now no King being,) no Court that depended upon his Person, or his dignities, or Commissaries, in respect of their prerogative Jurisdiction

dicature

dicature reputed transcendent remedies for som transcendent Injuries committed and suffered amongst the people, can be necessarie, because triennial or more frequent Parliaments, and speciall Commissions of Oyer and Terminer to be granted them, when and as their Causes require, may better supply them and with more speed and Justice, and less charge and expence finish their Causes at or near their homes, then all, or any the Courts at *Westminster* ever did or could. But if the Keepers of *Englands Libertie* be pleased to have any one or more Courts, or Judges to be Superintendents above all others, besides Parliaments, and speciall Oyers and Terminers,

E ners,

ners, Then they are to be desired, to be also pleased to allow, and pay them sufficient Wages at their own cost, and not the peoples, as Kings did when their Commissarie Judges were to have of never so many Parties in one Cause, but 12^d to be divided amongst them, and that after the end of the suit, and not before. And a Pleader (though a Sergeant at Law) was sworn to plead as well as he could for his Master (now called his Client, and counted his servant) and to abuse the Court with no fals, or more delatorie then necessarie Pleas, And was to have for every such Pleading, but six pence; and for his sallarie or Wages, for his attendance in every Cause

from

first to last, beginning to end, as the Court should think fit, considering the greatness of the Cause, and merit of the Pleader, &c. as you may read in the *Mirror*, p. 64. Now to return to your Mechanics, commonly (as you say) brought up illiterat: surely it cannot be unknown to you, that there are most commonly as many (if not more) Masters of Art in *London* that use Trades and handicrafts as practise Law at *Westminster*, and compleater Retoricians, Logicians, Musicians, Arithmeticians, Geometricians, Astronomers and Physicians, all which are the severall liberall sciences, and the very Encyclopedie and summarie of all good and necessarie Arts and
E 2 learning:

learning: How then do you make it your consequence, that if all Commissarie Judges be not adored as you would have them; all learning and gentle extraction must be debased, but ignorant and sordid birth must ascend to the Chair? as if there were no learning but in Pedlers French and Law-Latin, the very disguises of the Law, which hath no such need of them, as a foul face of a Mask, or an hangman of a Vizard; but contrariwise, much necessarie to be rid of those Curtains, which hide both the beautifull Shape, and material substance of it, from us, that it may appear (even to our understandings) more gloriously, more learnedly in plain Eng

lish, then in that Canting more obnoxious then that of beggars, which would but cheat us of necessaries to sustain their lives; whilst *Law-Canters* cheat both us, and them, of all our livelihoods and liberties, to surfet themselves with superfluities; by making us all starvings, pined with that extream of wants, the want of *Justice*: for put the case that those *hotch-potch French*, and *Quelquechose Latin* were banished, and the Law rendred in English (as Scriptures are which were hidden from us by Prelats, as our Law by Lawyers) would not all learning, and argumentations in Law be as necessarie for the continual preservation of mens lives and e-

estates, and therefore continued in English as Sermons in Pulpits, and disputes in Schools and Universities, requisite for the salvation of our souls are? Nay would not School-Masters (to read and teach the Law in common Schools) be as necessary in *London*, as Students in the Inns of Court, or Chancerie, or as such have been (as you may read in the *Lord Cooks Preamble* upon *Magna Charta*) and did read upon *Magna Charta*, when it was read twice yearly in Churches, and 4 times yearly untill full Counties, untill the same King that assented to the making, and was sworn to the observing of *Magna Charta*, in the 9 year of his Raigh,

Raign, by the advice of his Chief Justice *Hugh d'Burgo* (whose advice and his followers ever led Kings to ruine, and Subjects to hazards) by his special Writ in the 19 year of his Raigh, prohibited the said publick reading, and teaching, (as you may read in the same place.) Did not the *Eunuch* understand the Language he read, yet wanted *Philip* to interpret the meaning? And did not God send *Philip* to that end? So no doubt (although the Law be Englished) the most part of English people will be *Eunuchs* in their understanding of it so fully as they ought, untill, and but whilst there be *Philips* to expound it? for it is too great a Studie for men

otherwise imployed, to be expert in; to resolv Causes which you call Intricate, As you would make it for Coblers to dilucidate texts, which many call hard Scriptures: And who can doubt it to be Gods speciall gift and vocation in Law to som, to be just and learned Lawyers, as to others to be sincere and Orthodox Divines, while the world shall consist of bodies necessarie to be regulated, as of souls to be disciplined. And then for your gentle extractions, may not they be as they were ever wont (since Marriages were ordained in Heaven, may not a Judg bestow his daughter upon a Citizen, and a Citizen his upon a Judg, or an Earl, (as we have seen usuall) : but
by

by your allegation that there is a general difesteem of gentry more now then from the beginning of the World, which Mr. *Lilburn* can be no cause of: It is manifest you charge the present Government as faultie for suffering such a difesteem to be among the people, wherein you do but traduce and wrong the State, that neither desire, nor countenance any such thing, but when gentry (for the most part) grows degenerat, and nobilitie debaseth it self, *Corruptio unius est generatio alterius*: when Lords turn Boors and simplici-ans, let Clowns turn Lords and Politicians; And let him that will carp at the Vicissitude of things, which divine providence

E 5

dence hath ordained, blame neither State in generall, nor persons in particular, but conceiv rather, that *Ablata Causâ tollitur effectus*; when vertue faileth, the honor followeth; when God took his holy Spirit from *Saul*, both Spirit and Majestie were transferred to *David* in a larger measure; and therupon be you further answered by an He-then: *Tempora mutantur, et nos mutamur in illis*: Times are changed, and we therein: By whom, is manifest; but how, and when, are *Arcana Dei*: Forbidden secrets, imputable by such as suffer therein, to their sins; and therefore you shew your self in this point, not an *Alter Causæ*, but an *Altercator*: not a

wise man but a wrangler:
 Whilst you might observ
 further, that God never took
 his holy Spirit from whom he
 gave it, but for their abusing,
 or not using that power which
 accompanied it, as they ought,
 whereby they provoked him,
 as when he said: *It repent-*
eth me that I have set up Saul
to be King: 1 Sam 15. 11.
 When *Saul* spared *Agag*, and
 his fat Oxen, &c. which God
 commanded to be destroyed:
 So when *Englands* Kings and
 Lords made wrong use of
 their Judicature and power
 which he and his people had
 given them; was it not time
 for God himself, to justify
 himself and his people? When
 they and their subordinate
 Judges connived together
 with

with such men as God described by his Prophet *Jeremiah* to be his enemies, saying: Among my people are found wicked men, they lay wait, as he that setteth snares, they set a trap, they catch men, and as a Cage is full of birds, so are their houses full of deceits, therefore they are become great and waxen rich; they are waxen fat, they shine; yee, they overpass the deeds of the wicked, they Judge not the Cause of the Fatherless, yet they prosper; and the right of the needie do they not Judge: Shall I not visit for these things (saith the Lord)? Shall not my soul be avenged upon such a generation as this? *Jer. 5. v. 26.* were there ever in *Israel* such waylayers, snare-setters, trap-setters,

setters, & men-catchers, as were the Scribes & Pharises, who concealed the law (w^{ch} God made for his people) from his people & assumed the exposition thereof to be proper to themselves only, and thereby snared, trapped, and caught the people as they pleased; made way for themselves to become great, rich, fat and shine; which exposition was but of their own naturall language, which their Countrey-men understood, or might as well as they, yet our Saviour called them *a generation of vipers, &c. that laid heavie yokes upon their brethren, &c.* Did not our Judges and Atturneyes in England exceed them, that not onely concealed the Laws of God, and

and this Land, made for this people, from this people? though partly published in English (as our Statute Laws are) whereof nevertheless they assume the exposition to themselves; howbeit rational English-men may understand them as well as they; but also barbarized that part of our Law which is called, and ought to be common, so that they have made it proper to themselves onely, because no other linguist (howsoever learned) can understand it, but onely they that made it such for that purpose, whereby they snare, and trap all men as they list, and their Legion Gaolers, Catch-poles, setters, &c. (who glorie even in those names, and are rich

rich by those meanes) catch, and imprison all Debtors, and most of them to death, contrary to all Law, but what they made and procured against *Magna Charta*, and maintain (though repealed) against the *Petition of Right*, and above 20. Statutes, all Confirmations of *Magna Charta*. Do the Judges of *England*, judge the Cause of the Fatherless? the Orphans of *London* can tell you no. Do they judge the right of the needie? the Widows, the Fatherless, and all that sue *in formâ pauperis*, nay they that beg, rob, and steal to boot, with those that starve for need, can tell you no. And shall not God be as good as his word? Shall not his soul be avenged upon this generation?

tion? yea, no doubt, and therefore Judgment began at the House of the Lord, which King, Lords and Bishops, that parted the peoples spoils, neglected *Achan* and his Wedg; made all covetous gripers more griping, *Regis ad exemplum*; and all men more offenders because the greatest most thrived, and were never punished. Therefore Kings, Lords, &c. whose extractions for Gentry were ever esteemed best; And many Bishops well descended, laying aside their vertues, who shall blame God for laying their honor in the dust? but let all that love the present State, and Government of *England*, with the Keepers of the Libertie thereof, take heed
in

in time they do not the same things themselves, they have condemned in others, of whose punishments God hath made them his Instruments; for we are sure that the *Judgment of God is according to truth, against them which commit such things; 2. Rom.*
2. Let them not overpass the deeds of the wicked, by not punishing them which they finde to be such, yea, and especially the wickedest of them, even such as none can be so wicked; Judges that persevere in injustice, who by suffering such offenders, become not onely the committers of their offences, but superlative offenders, whom God hath none above them to correct, but himself, which he therefore

therefore usually doth, by raising Wars against them, and enemies unto them, as well of their own Nation, nay their own Children, as others; and as well Infideators of their wayes to, and at their doores, and affacinates in their houses, as adversaries in the Field. And as for your self Sir, may not we say of you, as *Jeremie* said of som in his time: *A wonderfull and horrible thing is committed in the Land, that Prophets Prophesie falsely, &c.* For what do you elf when you say, you are obliged, as all men are, to reprov sin wheresoever you finde it, and yet you justifie and magnifie such Judges as the true Prophet reproveth. Take heed therefore how you

use

use your *tertiam Linguam* (as *Walterfensis* calls it) which by lying and flandering, either by way of *adulation*, as you do the Judges, or *detraction*, as you do Mr. *Lilburn*: the partie that so doth, abuseth three persons at once, *viz.* the *Speaker*, the *bearer*, and he that is *spoken of*: And such tongues (saith the same Author) had the Prophets that were slain; *Doeg*, that was rejected, and *Saul* that slew himself: And such tongues *St. Bernard* calls *triplicit*, for the same reason; and saith, that such *Sycophants* as use them, have the *Devil* in their tongues, and *Auditors* in their eares, and a *consenter* in their hearts. And for sordid births (except I knew yours) I know
not

not what to say to you; but suppose the tree may be known by the fruit, and well do I know, that as *London*, and other Cities, ever had Mechanicks of as great and noble extractions, as *England* yeilded, so the Barrs at *Westminster* ever hitherto had long-roabed men of as promiscuous originals, as humanitie afforded: And of *London* births at this present, there be vertuous and honorable Chair-men at *Westminster*, as *è converso*, there be of Judges sons, hopefull Apprentises in London. Where you finde *Coblers* in Pulpits, it is because the *Divines* are out. And where you say Plow-men ride to Sessions instead of Justices of Peace; there can be

no Sessions without both, viz. Knights or Esquires to be Justices, and Plow men, (which are the best kinde of free men in *England*) to be Jurors. And as Jurors are there, and elsewhere the more real Judges, so is their calling far antienter, for *sokmen* were long before Justices of Peace in *England*; And soccage was ever a better tenure then *Esucage*, or Knights service. But a Justice of Peace, and a Plow-man do well together, not onely in Quarter-sessions, but in constant hous-holds; and the eminentest, best extracted Knights and Esquires, as they have ever been the best hous-keepers, so they have been the bountifulest cherishers and countenancers of

94 Jurors Judges, &c.

of their Plow-men in their most necessarie calling for the Worlds sustenance : and have not scorned to put their hands to their own plows, as Kings, and Lords have vouchsafed their names , and associacions to their Subjects, in their trades and handicrafts, to countenance, commerce and traffique.

So not finding any more of your Pamphlet necessarie for me to answer , as this much was, for my reason given you in the title page thereof. I bid you heartily farewell.

From my lodging in Mr. Mondays
house upon Clerkenwell-Green,
July 1650.

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THE
CRIE OF BLOOD:

OR,
A Confutation of those
Thirteene Reasons of the *Fel-*
cers at Westminster, for the mainte-
nance of their illegall *Capias*
for Debt.

By which is discovered the great
benefit and freedome that will accrew
to the people of the Common wealth
by the reformation of that de-
structive Law.

Luk. 11. 46. *Woe unto you Lawyars, for
ye lade men with burthens grievous to be
borne, &c.*

By J^{oh}n Jones of Neyath in Com.
Brecon. Gent.

L O N D O N,
Printed for Thomas Matthewes,
at the Cock in St. Pauls Church-
yard. 1653.

THE
CRIE OF BLOOD:

A Celebration of those
Thirteen Bishops of the 17th
century who suffered for the
faith of their High Church
for Christ.

By which is discovered the great
errors and traditions that will not
allow the people of the Christian world
to be the restoration of that de-
fective law.

LONDON: 1745. Where may be had
the full and true history of the
same.

By John Jones of Newport in Corn-
wall. Gent.

LONDON:
Printed for Thomas Maitland
at the Cock in St. Pauls Church-
yard, 1745.



To his Excellence

OLIVER CROMWEL,

Lord General of the puis-

sant Armie of the PARLA-

MENT of ENGLAND.

Renowned Sir!

A S your Com-
mand is gene-
ral, so are your
cares, troubles, sufferings,
actions and endeavors all

A 3

ge-

The Epistle

general, for the general
good of this Nation in ge-
neral: Nor is the ease and
number of the Prisoners
for Debt in *England* and
Wales, for whom you
have been, and are a sol-
licitous, although yet im-
prosperous mediator to
the House of Parliament
so small a particular, but
that as the prudent King
Philip of *Macedon*, who
accompted his bodie
small to the rest of his en-
dowments, and knew

Dedicatorie.

it to be mortal, desired
to be dailie remembered
he was mortal; to the
end he should not more
glorie in what he had
well done, than persevere
in well-doing, and fi-
nishing his wel-begun
enterprises; that so he
might immortalise his
fame, and illustrate the
faculties of his immortal
virtues, that posteritie
might speak of him, not
like Pythagorists of their
master, *ipse dixit*, but *ipse*

A 4 *fecit*;

The Epistle

fecit; nay more, *ipse per-*
fecit. I hope likewise
your Excellence will not
be offended with me one
of the heartiest, though
of the meanest of your
Honors wel-wishers, to
mind you of the neg-
lected miseries of the said
prisoners now, more
then ever, likelier to be
continued and increased
then relieved, or abated
by the generation of
Lawyers overswaying
the mildeness of thole

;*fecit*

A

Par-

Dedicatory.

Parliamentary Members
that have long promised
you to be careful to
free Prisoners, and to
hasten their enlargements
out of their wrongful
imprisonments, which
if you see performed, as
hereafter is desired, will
be an action of no less
Divine than Charitable,
and no less profit their
Honour to your self
in particular, and
the Common-wealth in
general. The Officers in
A 5 Law

The Epistle

Law have lately presented
to the Parliament with
93. Reasons for the
maintenance of Arrests
and Imprisonment for
Debt, contrary to *Magna
Charta*, and the *Bill of Rights*,
as I have elsewhere
proved elsewhere, and re-
pugnant even to Reason
it self, as I have here fol-
lowing farther declares
in answer to their said
Reasons in the Prisoner's
behalf; in which, and
whose names I likewise
humbly

Dedicatorie.

humbly dedicate the same
to your Honor; with a
copie of the said Reasons
hereunto first annexed
as it came to my hands,
and next an answer to
their preamble: and
afterward particular an-
swers to their particular
Ratiocinations: and
lastly, the Prisoner's
humble Petition to your
Honor; all which I
could not have readie be-
fore Colonel Pride's de-
parture (whom God
prosper)

The Epistle

prosper in your Service;
and the Commonwealth's, whose welfare
hee preferreth above all
(worldlie ends) but have
now presumed to send
them unto you; beseech-
ing your Honor that
your Lieutenant General,
Colonel *Eleetwood*, (a
man of no less worth
then eminence) or some
other like publike spirit
may act in this matter,
and others of the like
nature in your Honor's
(reglorie) absence

Dedicatorie.

absence according to
your directions, and the
people's necessitie from
time to time, that no op-
portunitie bee lost, and
more lives of Prisoners
bee saved, and your care
thereof to the uttermost
expessed.

*The Lord President of the Council
of State, and Col. Martin are con-
ceived to bee no less willing then
able to procure such a Commission
as the Petitioners desire, and Law
would afford, if your Honor would
be pleased to write to them, which
I humblie submit to your Honor's
consideration.*

So wisheth your
dailie Orator,
John Jones.



and the Nation; and therefore

AN ACT for the continuance of the process of Arrests, for the good of the Common-wealth.

Enacted by the Kings most Excellent Majesty



He proceedings by waile of Arrest at the King's Suit; and in all actions that were Quare vi & Armis, between the subjects, are as ancient as the Common Law of this Land; but the process for the people in other Actions, was Summons, Attachment, and distress, which Cours; as to recover Debts, did prove delatorie,

Reasons for the continuance
tortie, and manie times fruitless,
to the great hinderance of Mar-
chandise, and other Commerce
in this Nation; and therefore
former Parliaments did pro-
vide as appears by diverse Sta-
tutes) the writ of Capias, in an
Arrest as a full remedie, and
most necessarie for this Common-
wealth. 3 Rep. 12. ~~20~~
Herbert's Case. 53 Hen.
in Accompl. 1267. 25 Edw.
c. 17. An. Dom. 1350.

Because attaching the peti-
son doth secure the Petitioner's
debt, either by present payment,
or causing other satisfaction,
which the proceedings by sum-
mons do not; and as a man
will give all for his life, so hee
will do much for his libertie.

2. When

of the process of Arrest, &c.

2. When men are detained upon the Arrest (which is but seldom, for few are arrested in comparison, and then) it is ordinarily but for a short time, until they have given securitie to answer the Action, or som warrant to appear.

3. If men may not proceed by Arrest, it will much hinder Trade, and other dealings; for men will not adventure to trust, where there is much libertie for the debtor to stand out; and Merchants, and Tradesmen manie times look upon the Person as the best securitie, and the remedie by Arrest, the speediest to gain their debts; without which Trade will necessarilie decaie.

4. The

Reasons for the continuance

4. The process to Arrest, doth end most suits before the Person bee attached, and before appearance, as experience doth shew; for when men will not regard a summons, they will take course before they will suffer an Arrest, 52 Hen. 3. cap. 23.

5. Men will take occasion from the summons (as formerlie they have done) to be gon from one Countrie to another, and to make awaie their estates, and though the Plaintiff know it, yet hee cannot help himself, which the Arrest doth prevent: And the Law-makers of this Land have ever held it more reasonable to provide for the satisfaction of the Creditor, then the libertie of the Debtor.

6. England

of the process of Arrest, &c.

6. England is an Island compassed with manie Port Towns, where there are manie Merchants, and men that go abroad; and trade by Sea, who buie wares upon Credit; there wil bee continual occasion of suits against divers persons of this sort, who will not much regard the summons, but will forsake themselves, and their estates, to Sea again, and the Creditor can have no remedie; whereas if the parties might bee attached, they wil make satisfaction. *insuring some of his*
7. Whereas divers tradesmen subsist upon their Credits, and take up great summes of money, for which they can give no other securitie then their
per-

Reasons for the continuance
persons, and by advantage
thereof, manie times attain
to great estates; but if the pro-
cess of arrest bee taken away,
they can hope no more to be in-
trusted, which apparentlie tends
to their ruine.

8. And that proceedings
by Arrest maie not seeme at all
cruel, or unjust; we find both
presidents, and approbation of
the like, and greater severitie in
the Old and New Testament;
as selling the Debtor, his wife
and children, and all that hee
had to make paiment, and if
taking, and casting into prison
for debt, until the utmost farthing
were paid: And yet this course
was not condemn'd amongst the
Romanes, (so much they loved
Justice)

of the proceſſes of Arreſt, &c.

Juſtice) nor by Chriſt himſelf
in the New Teſtament, who
bid's agree with thy adverſarie
before thou com to the Jadge:
And God, who will have that
which is right to be don among
men, was verie careful that his
own people ſhould paie their
debts; and therefore if anie
were indebted, though they were
poor, and could not paie, yet the
Creditor might take the Debtor,
and his Children to bee his ſer-
vants and bond-men; and
might take their Garments
from them, and the bedding
whereon they did lie, from under
them, which was a far greater
punishment then our light Ar-
reſts; for the Priſon, with us,
is but a gage, or pledg, until
the

Reasons for the continuance
the defendant take courſe to an-
ſwer the Action. Mat. 5. 25.
Mat. 18. 30. 2 Kings 4. 7.
Levit. 25. 39. Prov. 20. 16.
Prov. 22. 27.

9. Men ordinarilie begin
Suits upon neceſſitie, and Deb-
tars generallie are called upon
before anie ſuit is commenced:
which indeed is in the nature of
a ſummons; but yet neither this,
nor the writ of ſummons doth
drive men to take anie courſe, un-
til the proceſſe of Arrest iſſue
forth, being more compulſorie,
and a more ſpeedie remedie for
the Creditor, then the milde,
and gentle ſummons was found
to bee, (as appear's by ſundrie
Statutes, 19 Hen. 7. cap. 9.)
which are more proviſional for
the

of the process of Arrest, &c.

the Creditor, who is alwaies out of his monie, then for the Debtor, who seldom well spent it, or hath care to repaie it.

10. And if by anie new waie, upon meer summons onlie, and default; Judgment shall bee had before appearance, (which courf the Law doth not countenance) then the grand pillar of our Common Law, the Trial by 12. Men (which the Law doth much honor and favor) will fall to the ground; for much business will rest whollie upon the Affidavid of a summoner, or the like, which will bee a means to multiplie suits, and is an unsure courf, and will induce more perjurie into this Nation, then our Law would ever before this time
give

Reasons for the continuance
give an inlett unto: And
therefore former Parliaments
providing against delays by
summons, did not give Judg-
ment upon default, but found out
a speedie remedie by Arrest
to bring the Defendant to his
answer.

II. By the Law a Capias ad
satisfaciendum, doth not lie,
but where there is a Capias ad
satisfaciendum first: and
there is as great reason and e-
quitie for the Arrest to answer
before Judgment, as for the
Arrest to satisfie after Judg-
ment, because the Capias ad
respondendum doth compel the
defendant to take notice of the
action, to which hee maie plead
if hee will, and doth secure him
that

of the process of Arrest, &c.

him that hee shall not start, so that when the Capias ad satisfaciendum doth issue forth, there is left no color of just exception for the defendant: but on the other side, if Judgment shall bee entred upon a supposed summons, there will bee manie grievous complaints, and the succeeding evils will hardlie bee redressed; manie will bee undone, and suits will bee multiplied.

12. Experience doth shew that the benefit of the process of Arrest hath been verie great to this Common-wealth: and all the Statutes have mentioned it from time to time, and have given a larger extent unto it, then before

B

fore

Reasons for the continuance
fore it had, and none have
abridged it in anie thing,
which is now of great anti-
quitie, having been for ma-
nie Ages the best remedie
(for the People to recover
their Debts, and to compose
other differences) that our An-
cestors could devise. Anno
Dom. 1267, 1350.

13. Lastlie, The subtiltie
and subterfuges of Debtors
having made the processi
of Arrest now more neces-
sarie then formerlie, there
will be reason rather to add
to the remedies provided
for the Creditors in former
Parlaments, then to dimi-
nish them: And if anie in-
conveniencie by this so ne-
cessarie

of the process of Arrest, &c.
cessarie a course happen to the
Debtor, yet will the taking it
awaie prove more preju-
dicial to the Plaintiff,
who is the partie inju-
red, and in reason
his case to be pre-
ferred, and fa-
vored.

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...more ...
...the ...

[illegible]

10/10/1914

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THE CRIE of BLOOD.



THE first part of this
Preamble is far
from the matter:
Wee confess, Ar-
rests by *Capias*,
without Summons, for Trea-
sons, Murthers, Felonies, and
Trespases, don *Vi & Armis*, or
Contra pacem, or *Formam Statuti*,
as Extortions, and all Frauds,
and Injustice, don under color
of Office and Justice, to bee
lawful, and as antient as the
Common Law of this Land; and
more antient too, becaus such
offences were committed before

2 *The Crie of Bloud.*

the Laws were written, or made in those cases, or thought upon, upon, to punish the past, and prevent the future. By the Law, wee know the sin that was before it; and by the due cours of Law, the cours of sin ought to bee staied or corrected. But what is this to a debtor, which groweth neither *vi & Armis*, nor *contra Pacem*, nor *contra Formam Statuti*? for recoverie whereof, against able debtors, the Statute of *Westminster* 2. cap. 18. And the Common Law before that, provided remedies, the proceſs, or proceedings whereof were by summons, attachment & distress, (as our adversaries confess) which cours, if Antiquitie can meliorate, is far antienter then the *Capias* for debt, which they make no elder then the repealed Statute that gave it, 25 Ed. 3. 17. which the
same

The Crie of Bloud. 3

same King annulled the 3. and 17. years next after, viz. 28. and 42. of his Reign. The delatoriness alleged in the courf of Summons, is a deceitful information, and an untrue report made to the High Court of Parliament; which were it to an inferior Judicature, deserveth no less punishment, then the Informers, to bee imprisoned a year, silenced for ever, and fined, and ransomed at the State's pleasure, *Westm. 1. cap. 29. 3 Ed. 1.* For the truth is, there can bee no speedier waie devised, considering Actions of Debt by Common Law, and many Statutes, ought to bee laid in the proper Countie wherein the Defendant dwelleth, and hath, or hath not wherewith to paie; where the Sherifft having his Justices, which is the onely proper writ for debt, is a Commission to

4 *The Crie of Bloud.*

hold plea above fortie shillings, and is to summon, attach, and distrein, and do execution according to the verdict of the Jurie, if in an Hundred Court, in three weeks, allowing fifteen daies, as Law requireth, between Process and Process; which three weeks between Court and Court, may fully afford, and that is no long delaie, in comparison of what is usual at *Westminster*: or if in the Countie Court, three moneths, or twelv weeks doth the same. But if the Action bee laid in, or removed to the *Common Pleas* at *Westminster*, (which ought not to bee don, or suffered, without injustice, or partialitie, proved, not alleged in the Sheriff) they cannot determine the Action under three Terms, which is not the fault of the court of Summons, which requireth but
• fifteen

The Crie of Blond. 5

fifteen daies between Process and Process; but the fault (more then delatorie) of the court at *Westminster*, which requireth long Vacations between Term and Term, and removeth more Causes thither in one Term, or Vacation, then they can end in seven.

And where they saie, Summons are many times fruitless; that is never, except the Debtor hath nothing to bee summoned by, & so ought not by any Christian Law, to bee looked after, but with eies of charitie. And why Merchandise and Commerce in this Nation should bee hindered for want of a *Capias*, to arrest and imprison non-solvents to death, cannot bee truly demonstrated by any Christian reason, since all men know, that all other Nations as well Heathens, as Christians, who

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never

The Crie of Blond.

never admitted so impious a remedie to recover debts, as the *Capias*, finde no hinderance of Trade or Commerce amongst them, but onely the Trade of Lawyers and Liers, whereof the fewer make the better Commonwealth.

That former Parlements provided the *Capias* for debts, as a full and most necessarie remedie for this Common-wealth; and that divers Statutes affirm so much, appeareth to bee these men's additions to their former mis-informations, and endeavors, to abuse this Honorable Parliament: For it was but one Statute that ever provided this *Capias*, and that is long since repealed as aforesaid, and so continueth by more then thirtie three Parlements and Statutes. Neither doth that Statute shew any caus for its provision,
making

The Crie of Bloud. 7

making, beeing, or necessitie of its continuance, or hath any Preamble at all (as all necessarie Introductions of Law usually have) but pinneeth it self to the Statute made for Accomptants, viz. Lords, Bailiffs, Rentgatherers, and servants, that cheated their Masters of their rents, and monies committed to their trust, to collect and accompt for, contrarie to all Laws, Justice, Equitie, Mercie, and common honestie; all which they falsified, and converted their Master's monies to their own use; which to answer unto by due course of Law, they commonly durst not abide, for shame, more then for the debt, and therefore became fugitives from their acquaintance: so that the *Capital* was necessarie to fraie, and fetch them to accompt with their Masters.

But

8 *The Crie of Bloud.*

But this pinning, or relating this Statute to that, seemeth to bee (as Master Cook writeth thereof) the work of som corrupt Lawyers, Members of that Parlament, that passed it unexamined, except by a Committee, which they over-ruled; and that is in a few words, so huddled up amongst other things, as they might bee as soon forgotten by the hearers, as read by the Impostors: which practise they have used for the unspeakable advantage in all Parlements that trusted them; God bless this from the like, and grant it bee not too late wished. Howsoever, that venerable Judge, and Autor of the *Mirror of Justice*, pag. 283. ca. 5. sect. 7. condemneth this *Capias*, and declareth it to bee contrarie to Law; and sheweth reasons therefore, both there, and p. 108. where

where the Action for accompt is debated, and declared to bee mixt, in regard of the trust and deceit of the Accomptant; deserving therefore to bee prosecuted so far, as to bee forced to an accompt: but for the debt, more then hee hath wherewith to satisfie, the Law requireth nothing of him that hath nothing; and giveth no recoverie, nor other remedie then revenge, which God calleth his own. And both this Author, and the Lord Coke, in the *Third part of his Institutes*, agree, that the acting and mainteining of things contrarie to Law, as Law, or lawful, is a subversion of the Law, and that is no less then High Treason against this State and Common-wealth; which case is our adversaries, whom wee hereby impeach thereof, and crave direction and assistance.

10 *The Trie of Bloud.*

assistance, to indict and prosecute them according to the known Laws in that behalf; So far as they may not lose the honor of their Antiquitie, which they press so much for; and wee confess, that for the mysteries of its craft, it hath exceeded the Sciences of all their Progenitors in their several faculties; for in the art of men-catching, there are of them many an one, who exceed,

1. Three Bum-Bailies, who by virtue of their *Capias*, can commonly catch but one by the poll at once, nor that without *vi & Armis*, and loss, or hazard of lives, by the furie of their passions, while our Chamber-Officer can make threescore *Capises* to catch five times threescore persons without any danger of his own, except by the wrath of God, which few of them
ever

The Crie of Bloud. II

ever feared, but are all emboldned by his patience, to attempt the catching of a whole Parliament of most wise Senators at once, to becom subject in themselves, or their posterities, to this Purs-net, perswading them to father, and maintein this Bastard *Capias*, which knoweth no difference between a Parliament-man, and another, or between his friend and his foe.

2. In the Art of Ambition, they exceed their Father the Devil, who did but attempt to bee Lord of Hosts, whilst these men becom Hosts of Lords, and still covet to enlarge their Dominions.

3. In the Art of Murthering, they exceed their brother *Cain*, who killed but one *Abel* in all his life time, and for that one offence, had the curse of God upon him and his seed for ever;
while

12 *The Crie of Bloud.*

while these men daily murther many of their brethren with fals Judgments, and solace themselves with Angels, defile their hands, and fill them with bloud, yet would bee heard in Parliament, when God telleth them hee will not hear them, *Isa. 1. 15.* and bid's them fill up the measure of their Fathers, that upon them may com all the righteous bloud of the Earth, from the bloud of *Abel, &c. Mat. 23. 32. 35.* and *Luke 11. 50, 51.* concluding v. 52. *Wo unto you Lawyers; for you have taken away the key of knowledg; you entred not in your selvs, and them that were entring in, you bindered.* Which Scripture, wee conceiv, may bee fitly applied to our *English Lawyers*, who have taken away the English of our Laws, which was the key of our knowledg therein; And entred not
into

into the truth thereof themselves; and them that would, they hindered, until this happy Parliament righted us in that, sore against their wils, and will as wee hope, and they fear, further right and free us from their bondage, finding that now they have filled the measure of their Fathers, that upon them may com, and from them may bee required all the righteous bloud of prisoners for debt, from the bloud of the first Free-man of England, imprisoned for that caus, to the bloud of the last that shall perish in prison for the same.

4. In the Art of Treason, they exceed *Judas*, who with one kifs, betraied but one Master, to a death fore-ordained by God's Providence, for the life of the world, except his desperate betraier, and other un-believers

14 *The Crie of Bloud.*

believer's children of perdition; while these men by their daily prevarication, and changing their notes, since they have deserted the Canonical Organs, and Psalmistical Harmonies, to the tune of the Organical Canons, shrill Trumpets, and rattling Drums, siding with the strongest Faction in Warrs, as with the richest partie in Peace, till they have betrayed three Commonwealths to manifold deaths, avoidable by the mercie of God, and Prayers of men, except these impenitents that harden themselves in their wickedness, do stir up others to second them of seditious and implacable spirits, sons of *Belial*.

5. In the art of Impostors, they exceed the Pope, and *Mahomet*, who by their impostures endeavored but to counterfeit Christ's Miracles, and make those

coun-

counterfeits sailable at high rates, thereby to diſestimate his truth, and prefer their own inventions, and to eclips his kingdom of grace, that they might ostentate themselves in too of Vain glorie; whilst these men having disguised our Lawes in Forraign languages, made them vendible to our selves at their own prices, and thereby have subjected the seven liberal Sciences, and three free Kingdom's of severall free Nations, to their unlimitable impudence, which being over-ruled for the language they intend to maintain, and augment in price and jurisdiction, and settle themselves in one tyrannical Monarchie, as arbitrarie, as intolerable, and as slavish, as mercinarie. And contrarie to *Magna Charta*, and were ever since the Court called the Upper Bench, hath imposed
it's

16 *The Crie of Bloud.*

its iudicature in matters of Debt, and other Common Pleas, expresse forbidden them, and taken out of their iurisdiction; and both it, and the Common Pleas, impose their Iudicature in cases of Tithes, expresse taken out of their iurisdiction by several Statutes, and given to the spiritual Courts, which (though now suppressed) their iurisdiction ought not to bee resumed but by the Parlament, nor executed without an Act for that end.

6. In the Art of Perjurie, they infinitelie exceed *Peter*, who forswore himself but once, and when he heard the *Cock* crow, went out from the Maid that urged him, wept bitterlie, repented him of his sin, and resolved to do so no more: whilst these men forswear themselves dailie; and when they hear their Pocken ring, go in to their Wenches with

with whom they interchange deceitful imbraces, and seem to laugh merrilie, persevere in their wickedness, and implore a Parliament to countenance, and continue them in condition to do so still.

7, 8, & 9. In the several Arts of Extortion. Bribing, and Prevarication, they exceed the notorious Judges, *De' Burgo Treilian, Bremble, Thorpe, &c.* as well in their takings, as in their numbers; for as those were few to their manie, and *Thorp's* taking was but 100 l. from manie hands; how manie hundred pounds taketh one of them from one hand? wee can witness too well, and others may compute by the increas of the price of an *habeas Corpus*, Error, &c. And the necessitie of divers parties to make frequent uses of those instruments, more to avoid Justice, then

18 *The Crie of Blond.*

them to desire it: whereby the
 pravarication, Ambodexter-ship,
 and Legerdemain of these men
 dailie appeareth more and more
 by their impairing of their Cli-
 ents to improve themselves; manie
 men of manie thousands beeing
 brought suddenlie to nothing,
 and most of them from nothing
 to manie thousands *per annum*.

10. In the Art of Commuta-
 tion they exceed both Cano-
 nists, and Civilians, who com-
 muted corporal penances to pe-
 cuniarie, paialbe out of perso-
 nal estates, while these men
 change Treasons to trespasses,
 and Trespasses to treasons at
 their pleasure, and make debt
 guiltie of death, surer, though
 somtimes slower then Treason,
 or Misdemeanor whatsoever,
 and men's estates as well real, as
 personal whollie their own.

11. In the Art of Transfor-
 mation

mation they exceed Chamelions, who can bee of anie colour but white, expressed in Scripture to bee the immaculate investiture of Angels: These men can seem of all colours to suit with all predominations, though never so divers, and all contraries, and turn the Law for all their turns, and arrogate most trust when they are most treacherous, and face themselves with the truth of Saints, when they are as falf as Devils.

12. In the Art of Counterfeiting, they exceed both Alchymists, and Coyners, of whom the first counterfeit, but Gold, and Silver, and turn more Gold to brass, and Silver to lead, then Copper to Gold, or Lead to Silver: And the second Counterfeit, but Pictures, whilst these men counterfeit Justice, Equitie, and Lawes, more concernable then

then Metals, to God and Man;
and fix mens substances, more
considerable then their pictures,
upon themselves, and their
heirs.

13, & 14. In the Arts of For-
gerie, and Fraud, they exceed all
Coiners of fals Monies, and
Counterfeiters of Letters, and
Tokens; whom, if they catch
with such misdeameanors, they
sometimes severelie punish, and
sometimes pass over sleightlie, or
excuse artificiallie, as may most
conduce to their profit, or con-
cur with their practise, whilst
they themselvs make it a chief
part of their office to forge the
returns of Sheriffs and Coroners
of severall Writs, and to file them
for true Records, and due pro-
ceedings of Law; whereupon
follow Judgments, Executions,
and Imprisonments to manie
thousands, to their utter undo-
ing

ing, and for want of summons, Attachments, and exigents duly executed, and returned by those Officers who never see them, yet are answerable by Law for those false Returns made unknown to them, and the Forgers thereof, as of all other fraudulent deeds which cannot be drawn, ingrossed, antedated, and contrived advisedly without them, or some of their Counsels, ought to be punished for the same, for which they are never questioned; but contracting the greatest Forgeries, wherein they are actors, pass for good deeds and onlie those trifles that want their skill, and privitie, are made great, or dear offences.

15. In the Art of Lying they exceed the men of Crete, and Chozoba, who (as is written, 1 Chron. 4. 22.) were also Ancient, as these men would be accounted;

C

for

22 *The Crie of Bloud.*

for those but as Men and Heathens, lied but to men in humane things, whilst these men, as Devils, lie unto God, and in contempt of his Divine Word, and Deitie, as shall appear hereafter.

16. In the art of Simonie, they exceed *Simon* himself, who would have bought, for his monie, the Gifts of the Holie Ghost, and intending the Apostles favor, purchased their indignation: whilst these men have, with their Monie's, purchased their Offices, and all the said gifts of the Devil, to execute them, and by the same endeavor to acquire the favor of manie other corrupt members, who (as wee hope) shall not bee suffered long to abuse the rest of this happy Parlament.

17. and 18. In the arts of Rapacitie, and Tenacitie, the
Catch

Catchpols and Gaolers exceed
Lions, and Tygers, and their
Gaols and Dungeons Hea-
ven, and Hell, for Lions will
favor their friends, and Ti-
gers their neighbors. And
Heaven will neither take, nor
receiv, anie but God's Elect; nor
Hell anie but Reprebates; but
Catchpols, Gaolers, and their
Gaols catch, and receiv all
men they can sue, and count all
too few, and keep them in
their pawes, and caves, while
they are worth a farthing.

And thus having suppediated
their Proöm with eighteen de-
scriptions of their properties
that appropriate to themselves
all our proprieties, and so super-
numerated their 13 false Reasons
for the supportation of their
innumerable falsities, wee shall
descend to list those Reasons as
followeth.

24 *The Crie of Bloud.*

Item. The first is all fals; for the attaching of persons secureth no part of the Plaintiffs debts by payment, or other satisfaction, but commonly their debtors bodies to miserable deaths, and their estates from their heirs and creditors, to Lawyers and Officers: For the proceedings by Summons, wee have answered before. And for Prisoners that are able to give for their libertie to their Gaolers, they have as much as they desire and paie for out of their creditors rights, and their own Frie, and not the Plaintiffs, or their heirs, have their Gaoler's leavings.

Item. The second is like the first, for it is not a few, that are detained for debt, when Sir *J. Lenthall* hath in his custodie or kenne one thousand persons; the Warden of the Fleet as many, the Gaols of London, Westminster

The Crie of Bloud. 25

and Liberties adjoining; few
less; and in the rest of all the
Gaols of *England* and *Wales*,
will bee found many more. They
that accompt so many few, de-
clare their desire is to have all
the Free-men of *England* and
Wales (except themselves) in the
same case; why? and with
whom els do they make the
comparison, but because they
conceiv there are more persons
out of prison, then in; their
detention is not seldom, but
frequent, and so are murthers,
and hurts, committed as well
before, and at, as after arrests;
by reason thereof, they are not
detained for a short time, but
ordinarily till death as aforesaid:
Warrant of Atturnie, if they
need any Atturnies, they ought
to give to whom they pleas, and
not to whom any Court appoin-
teth. And for appearance, no

26 *The Crie of Bloud.*

Free-man oweth it to any Court out of his Decenarie, Hundred, or Countie.

3. The third is but a block-head-ship's Proöm, as untrue as the former, and so demonstrated in our answer thereunto before. No Trade but Lawyers, nor such, but *Westmonasterians*, will bee hindered by taking away the *Capias*. It was the lawless use thereof, that caused more Usurers then Merchants, to look after men's persons: It never was, nor could bee the speediest waie for Plaintiffs to gain their debts, but the most delatorie to recover, and the most readie and vsual to lose them; so as the repetition of the decay of Trade, if the *Capias* were taken off, is but tantologie for want of reason, and an abuse of Parliament, to bee offered such untruths, to hear, or look upon,

upon, punishable as aforesaid.

4. The fourth is as bad as all the former; for the attaching of a man's person, where hee hath neither means to paie, nor friends to bail, produceth no end but Imprisonment, Summons, and Attachments of men's goods, where they have to paie, conduce to the speediest end between Debtor and Creditor: Hee that hath of his own to paie, will regard Summons, lest if that hee bee attached, hee shall lose all, and if submitted to his Creditor's mercie, hee may save som. Hee that hath enough, or more then sufficient to paie his Creditors, of his own estate, will neither regard Summons, nor fear Arrest, but desire it, being sure of what Libertie hee pleaseth, paying his Gaoler, and to leav what his Gaoler leaveth, to whom hee

28 *The Crie of Bloud.*

list, as aforesaid; whereby more Creditors are cheated, then by any other deceit, and more undone, then debtors of that kinde, who commonly live too plentifully, and leav somthing, when their Creditors have nothing whereby to live, or whereof to leav.

5. The fifth is as untrue as the rest; for a debtor that is worth the Summoning, can live no where better then in his Decenarie where hee is best known, and hath his pledges answerable for his honestie; nor can hee transfer his estate to any other Countie but to his loss. And his avoiding the due course of Law, is a misdemeanor that depriveth him of the benefit thereof; which beeing certified by a *Testatum*, a *Capias* of court ensueth, to pursue him from Countie to Countie, till hee bee found

found, or outlawed; which was ever lawful against such as waved their Law and freedom, to answer it in its due court; and such a Certificate of the Sheriff of that Countie whence hee fled, ought to make to the Chancerie, whence hee had his Justices to determine the matter; and the Chancerie ought to send the *Capias* to the Sheriff in whose Countie hee doth *latitare*, & *discurrere*; and so the *alias Plures*, *Exigent*, and *Outlawrie*, till hee bee forced to return himself to the first Sheriffs, to have his caus determined there by his Peers, as it ought: all which, affording fifteen daies between Process and Process, is feasible in half a year; and what hee shall bee then found to have left of his personal estate, his creditors must have all, and two parts of his real; with less then

30 *The Crie of Blood.*

a tenth part of the fees and de-
 laies used at *Westminster*: which
 old custome of Law being resto-
 red, and so known, will make
 everie able debtor submit to
 Summons, and farther Process,
 especially Onelawries, more ter-
 rible and odious then now, when
 they are but scare-crows, rever-
 sible and extinguishable by their
 grantors, for their gain at their
 pleasures: For the debtor that
 is not worth the summoning, up-
 on the Sheriffs return of *Non
 est inventus, & nihil habet*, the Law
 is ended (as aforesaid) until
 God enable him. And in the
 interim, wheresoever hee lurk-
 eth, or liveth, by lawful endea-
 vors, *Cantabit vacuus coram la-
 trone viator*, no debtor justly in-
 debted, can, or ought to bee suf-
 fered by any just law, or equitie to
 make away his estate, before hee
 paie his just debts, for it is not
 his

his own, but his creditor's; and such Conveiances ought to bee adjudged fraudulent, although the fraudulent makers of that fraudulent Statute, have inserted the words *bona fide*, for themselves, and their imps, who never had good faith or honestie to expound for their profit, as aforesaid; for good faith can do no man wrong, but fals Lawyer's interpretations thereof, and of the Law, commonly wrong all men, and enrich onely themselves. The Lord Coke in the Third part of his *Institutes*, upon the Writ *de odio & atia*, declareth these men to bee liars that charge the Law, or its makers, with more regard of men's debts, then their liberties.

6. The sixth is of the same stuff, and in substance answered before. Do more Merchants trade out of England by sea, because

caus it is an Island, then into it out of larger and Forrain lands, where the *Capias* for debt was never known? Do not these men buy wares upon trust, and trade to sea as often as the English? and having no *Capias*, have their creditors no Laws to recover their debts? is it not better to attach their debtor's goods, or their own in their hands, or others, then their bodies? And so hath *London* used to do by Custom, and other Towns and Ports ought to have don so as well; and the Law of the Admiraltie hath its court of Justice within its jurisdiction. Will common Lawyers, have no Law but their bastard the *Capias*, to range about by Sea and Land, like its Grandfather the Devil, seeking whom it may devour? Nay, are not the words of the Writ of Summons, at the Common Law.

The Crie of Bloud. 33

Law, directed to the Sheriff, which any Major, or chief Magistrate of any Corporation, may upon complaint direct to Sheriff or Sergeant; *precipe, &c. per bonos summonitores*; that is, I command thee to summon *A B, &c.* by good Summonitors, &c. and have their names, &c. and this Writ before mee by such a daie; And to what end? but that the Summonitors beeing two, or more of the ablest Freemen, or Pledges of the Jurisdiction, undertaking the Summons, undertake the goods till the Attachment ensue, if they cannot end the matter before, as neighbors bound in charitie so to do. But these *Westmonasterians* abhor that, and seem neither to know, nor willing to admit any charitable end, or other Law, but their *Capias* to catch and bring all fish to their net.

34 *The Crie of Bloud*

7. The seventh is but a chip of the sixth, and answered before, with this addition. Is there no trust, but where the *Capias* is, or can thrust it self? If it bee the caus of trust, Justice, Equitie, &c. and such a caus, as without which none of these can subsist (as they saie it is) and both legal and necessarie for this Common-wealth, that it seem's the onely Trustee thereof? Why is it not warranted, or suffered by these men themselves to peep into their Inns of Court, and *Chancerie*? places pretended to bee egress and ingress of Law, Justice and Equitie, and known to take upon trust more then all the Merchants of *England* can tell how to recover by the *Capias* against their persons, who make their Inns, and their Gaols of the upper Bench, and Fleet their Sanctuaries,

Quarles, more privileged then those that were so called and used by such debtors as made fraudulent gifts, feoffments, &c. and afterwards withdrew themselves thither, untill the second Statute made the second year of Richard the second, granted a *Capias* to ferret out such Latitants out of such Latebras; Such a ferret conceiv wee now, to bee necessarie for the Commonwealth, and especially for many undon *Londoners*, by trusting such debtors, or rather cheaters, to fetch them out of their profane Asylums, the *Fleet*, *Marshalsey*, their Inns, &c. instead of that by them commended for the use of the Commonwealth, and yet commanded not to meddle with themselves, or their habitations; as if they concluded themselves and theirs, to bee no part thereof, though well known

36 *The Crie of Blond.*

to bee all forfeited thereunto. But how irrational they shew themselves, when they offer reasons to a most wise and circumspect Parliament, to perswade them that can onely bee profitable to all, which is so unwelcom to them, that they cannot endure their own beagles that carrie it abroad, to bee their Inmates an hour longer then while they slave and pump them, and so make them as fit to bee their Mass-Priests, as their prolling Proctors.

8., The eighth sheweth these men's desires, as well to pervert the Word of God, as to subvert the Laws of *England*, and declareth their right as well to the Faggot, as to the Halter, and their fitness as well for Hell, as the Gallows. They blush not to saie, that they finde presidents and approbations in the Old and
New

The Crie of Blond. 37

New Testaments, of like proceedings, and greater cruelties against debtors, amongst the Jews, then is used by them and their *Capias* here: And those (saie they) were condemned, neither by the Romanes, that loved Justice, nor by Christ. The first Scripture they cite, is *Matth. 5. 25.* where *whosoever is angrie with his brother without a caus,* is advised to leav his gift before the Altar, and bee reconciled to his brother first, and then offer his gift, lest at any time the Adversarie deliver him to the Judg, and the Judge deliver him to the Officer, and bee cast into prison; where Christ saith unto him, *Verily, I saie unto thee, thou shalt by no means com out, until thou paieest the utter most farthing:* wherewith agreeth *Lu. 12. 58. 59.* and both with the Parable of the non-solvent servant, *Mat. 18. 25.* & all these places
con-

38 *The Crie of Bloud.*

conclude with the rest of the Scriptures, that the debt here meant to bee punished by imprisonment, was not a debt of monie borrowed for need, and lent for love, prophesied to bee don. *Dent. 15. 6.* and commanded *Matth. 5. and 42.* And therefore beeing no action of sin by the Old and New Testament, was liable to no action of Law, tending to personal punishment or imprisonment; but the debt meant here, was indeed the dutie of the Usurer, Extorter, Deceiver, Hypocrite, &c. to forgive their debtors their debts so accrued: But Usurie, Extortion, Briberie, &c. which were such heinous offences amongst the Jews, as still they are, or ought to bee with us, that they incurred mixt actions in Law worthe of arrests and imprisonments, till the uttermost farthing were

were paid, or restored, with amends; *Levit. 6. 2, 3, & 4*, expoundeth this debt to bee such cleerly, and no other. Our penall Laws for those offences, which make the principal debts void, and give the Plaintiff treble for damages, or according to the Judge's discretion, carrie shadow of that Justice. The Context in *Matth. 5.* declaring our Savior's speeches to the Scribes and Pharisees, elsewhere called Lawyers, Extorters, Dissemblers, &c. and here redargued of their unrighteousness, and breaking of the Commandments, which they adjudged death to others; accompting killing onely such as was done with the sword, and him to bee subject to the judgment, where they knew; that by their own law, men that killed in their own defence, had sanctuarie, & that the
word:

40 *The Crie of Bloud.*

word Judgment emphatically proceeded with the word The, is always used for the general Judgment of God: wherefore Christ telling them, that killing extend's to him that is angrie with his brother without cause, and elsewhere to him that suffereth his brother to perish when hee may save him; much more then to Fals Judges, Extorters, Usurers, &c. who may finde themselves sufficientlie described in him to whom his Lord forgave all his debt; (which in the last vers of this Chapter (as frequentlie elsewhere) is called as well trespass, as debt, because mixt, and compounded with sin, more then borrowing, or lending of monie) until hee extorted from his fellow-servant, who ought nothing to him, but to his Lord, upon whom he had not like compassion, as his Lord
had

The Crie of Bloud. 41

had upon himself, but grew angrie with his fellow-servant without caus, and cast him into prison; which, when his Lord heard, he was wroth, and delivered the mad Extortor, not the meek Debtor to the tormenter, &c. whereof let Extorters, Usurers, &c. take better notice, and applie the said Scriptures to themselves, and know that the Devil, called here emphaticallie the Adversarie, is he that delivereth them. (as the common accuser of sinners whom hee seduceth thereunto) to the Judge of Judges, and King of Kings, the God of Truth, Justice, and Mercie, who (except they say, and resolv to pay all, viz. repent, and have like compassion upon their brethren, as they expect from him) will deliver them to the Officer, as saith *Matthew* the 5. Tormentor, as saith *Mat-*

42 *The Crie of Bloud.*

Matthew 18. viz. the Devil again, who supplieth all such offices, and delivereth all that are delivered to him, to Hell, whence is no Redemption, till the uttermost farthing bee paid, which is never to be don after the oil is out of the lamp, and the dore shut: Where contrariwise the Law of the Jews (which Christ saith hee came not to destroy, *Mat. 5. 17.* and neither did, nor would alter, as appeareth, *Mat. 18. 25.*) did not imprison monie debtors at all, but sell them, and their wives and children, and all they had to their creditors that were bound by the same law to keep, and finde them in their houses, and imploiments, not in prisons, and dungeons, without, and from all imploiment but wickedness, as our Gaolers do us; nor as these men impiousslie allege, and belie the
Holie

Holie Ghost, saying, That their creditors might take their debtor's cloaths, and bed-cloaths from them; where the Text they cite, (Lev. 25. 39.) saith, they must use them as brethren, hired servants, and sojourners (which we finde all the Old Testament over, had the trust, and charge, not onlie of their Master's estates, but of their children, and their wives, and wanted nothing suitable, not onlie to their own necessities, but also to their master's credits, and employments. And debtors were to be kept so by vertue of their sale, but till the year of Jubilee, which, when it fell within seven years in the time of *Moses*, restored them to their libertie; for without it, the seventh year they were to be restored, as appeareth, *Deut. 15. 1.* &c. And in *Jeremie's* time, at the sixth years end, *Jer.*

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34. 14. Now doth the Capias, Arrests, and Imprisonments used by these men, hold anie analogie with the mercie, justice, sustentation, freedom, and hope of libertie in few years, which the Jewish law afforded to those debtors they sold to their Creditors? Compare, and finde as followeth: There the debtors had the mercie to be no Prisoners at all, but as hired servants, and sojourners: The Justice, to bee no bondmen which masters might use at their pleasures: The sustentation; to have food and raiment enough, and competent to their conditions, and their masters callings: The freedom; to live, and love husbands, wives, and children all together; to pray, feed sheep, and work comfortablie together in their masters houses, fields, vineyards, &c. with no less good
in-

instruction, and recreation to themselves, then profit and pleasure their masters, and hope of full libertie to make use of those good instruments for their own best advange at six years end, if a Jubilee freed them no sooner. Contrariewise; here the poorest debtor hath the cruellest imprisonment; that is the rule of these men's mercie: The greatest cheater hath the greatest favor; that is their Justice: The sustentation wee would buy for our selves at the best hand, while our monie last's, our Goalers take, or keep from us, to force us to buy half so much, and nothing so good of them, while wee have a pennie left; and after to starve; when others, for our Custom, would prolong our lives, with trust for a time, they will trust no poor man for a farthing; nor rich, but to fetch his monie. Our Freedom is not to the next

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Ward, nor in our own, to enjoy wives, or children, longer then they bring fees to the Gaoler; that when we have sold our cloaths, and bed-cloaths to feed our bloud-suckers, our common bed is the bare ground, till wee famish here, and our wives and children in the streets, and ditches, do the like; hope of libertie wee have none, but by such deaths; for our livelihoods are too little to pay our Fees from the dayes of our Arrests, to our Funeral: if anie attein to libertie by some casualtie, hee is the worst while hee liveth for his Gaol education. Our Law is derived from the *Romanes*, who (as these men say) condemned not the Law of the Jewes concerning Creditors, and Debtors; wee with ours were as merciful; and so it was before and since *Magna Charta*, when it medled not with men's bodies that had

not

not wherewith to pay their debts, but relieved, and imploied them according to their endeavors, forgiving their debts, and believing that of our Savior; if you forgive not men's trespasses, neither will my Father forgive yours, *Mat. 7. 12.* But these men that dare abuse the everlasting Word of the everliving God, and the fundamental Laws of this Land grounded thereupon, to mis-inform a Parliament to their own ends, notwithstanding they know wee have abundance of sound Divines to expound Scriptures, and some honest Lawyers, though no professors to explain Lawes. What shall wee think of these men's sinceritie to be trusted with the making up, and keeping of Records concerning the whole estates of the Common-wealth? but submit the consideration thereof to all interested therein.

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Their 9. Reason pursueth the former in its Coin; for most untrue it is, That men alwaies begin suits (meaning by way of Capias, and Arrest) upon necessities of injustice, that is to say; when no other trick will serv to bar men of their libertie to prosecute just suits for los of lives, or estates of most concernment; or for Treasons, felonies, or trespasses most notorious, committed by night, and defended by injustice, what is more common then to arrest the prosecutors for supposed debts of thousands of pounds, more then they are able to find bail for, until Trials, and Judgments be carried against them in the causes they should follow by the same hands of Power and Justice, that they should prosecute, but cannot, being so prevented. And how manie are now imprisoned for supposed debts, which they
never

never ought, or if they did, have paid, or which were not due at the time of the Arrest, &c. And what necessitie of Justice was to begin such suits? And what murther more wilful, more manifest, and more cruel, then to imprison men so till they die? And where they say, that most commonlie debtors have notice before any suit be commenced, why then do they debar summons, which is the right process of notice? How come Justices of Peace, and Grand Jurie men, that alwaies attend Assizes and Sessions, to be arrested by bills of middle Latitats, and Outlawries, before they can hear of anie suits against them? which case is common. And for their alleging of manie Statutes, or Parliaments, that approved of their Capias, let them name one more then that of 25 *Edw. 3.* 17. which gave it, and was repea-

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led, 28 Edw. 3. 3. and 42 Edw. 3. as
aforesaid. What Statute, or Par-
lament, ever since revived it in
expresse terms? It is true, That of
19 Hen. 7. 9. ordeineth process
upon Actions of trespass upon
the case to bee no more delatorie
then that practised for debt.
And wee grant that actions upon
the Case, being mixt acti-
ons, ever ought to have been
by Capias before that Statute,
however neglected by such as
ever left undon those things
which they ought to have don,
to do those things which they
ought not. And that summons is
a milder way, and not so compul-
sorie: as the Capias, wee con-
fess, and hold more Christian;
for the Capias compelleth men
that are not able to pay their
debts, and that never ought anie,
to be imprisoned, starved, mur-
thered: And no just debt to bee
paid so soon as summons, all the
world.

world knoweth thereof, and therefore no Nation but *English* admitteth a Capias for debt.

The 10. is as deceitful an information as anie before that; for wee desire no new way upon summons, to hasten Judgments before Attachments and distress, by affidavit of a summoner: but that summons may go by Writ, as it was wont, to the Sheriff of the Countie wherein the debtor dwelleth, requiring him by good summonitors (which are the words of the Writ) to summon the partie to bee at the return of the Writ, in the Court whence it issued, whether the Sheriff is to return both the writ, and the summonitor's names, in that ought to be substantial free-holders, and free pledges of the same decenarie as the debtor, who, if they return *summonitus*, are answerable for so much as they finde him worth, till At-

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tachment taketh it into the Sheriff's hands, or sureties for appearance. If the return bee a *nihil habet*, then (as aforesaid) the Law ought to look no further after him, till God make him able: for (as the Proverb was) where nothing was to be had, the King was to loof his due. And if the return bee *non est inventus*, his shunning of the Law maketh him a malefactor, subject to a *Capias* upon a *Testatum* directable to the Sheriff of the Countie wherein he lurketh, and so from Countie to Conntie, till bee bee taken, or out-lawed. Again, if the return be *summonitus*, Attachment, distress, and Judgment follow of cours, legallie, and speedilie, and are the onlie due process of Law, as wee have declared before; and so is not a Judgment by *nihil dicit*, stolne by connivence of Attornies, unknown to the Defendant, although

though his warrant of Attornie
bee had to appear for him: a
common feat countenanced too
much by the Law at *Westminster*,
to thousands undoings, and their
own gain. For trial by Jurie,
Issues joined, cannot bee tried o-
therwise, *Nibil dicits*, & Arrests
by *Capias* use them not: For mul-
tuplicitie of Suits and Perjuries,
they were things never found
fault with at *Westminster* these
200 years, till now. And now if
the *Chancerie* grant Justicieses to
Sheriffs and Stewards, as they
ought, *gratis*; and Corporations
proceed by their Charters, *West-*
monasterians need not fear to bee
troubled with multiplicitie of
Suits; and those growing fewer,
so will their perjuries.

11. The eleventh is a toie;
for wee grant that a *Capias ad*
respondend. beeing unlawful, that
ad satisfaciend. is groundless, and
both most lawless, and useless;

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the due process of law for debt being as aforesaid, summons, &c.

12. The twelfth is a Riddle and a Paradox, wherewith these men would amaze us with some wonders of their experience hapned by this Common-wealth by the benefit of their *Capias*, which they call the Process of Arrest, *Anno Domini* 1267, & 1350. They might have done well to declare their particulars, that others that know them not, might judge thereof as well as themselves. Wee confess, and they know the Arrest, Imprisonment, Exile, and Hanging of Traitors, Extortioners, &c. as were the *Spencers*, Father and Son; the Judges *Hugh d' Burgo*, *Tresilian*, &c. who seduced Kings, as these men would Parliament, were beneficial to this Commonwealth; and wee hope it will bee so again, though wee know not

not how long the Devil may help his servants: but of poor debtors wee can remember no arrest that was ever beneficial to any one person of this Commonwealth, but have sufficiently proved the Negative.

13. Lastly, for the subtilties, and subterfuges of debtors, wee know none more then these men; and their predecessors taught such as grew indebted, and by their natural inclinations, assisted with these men's advices, and devices, far more subtle then their own, to cheat men of their Lands and Estates; and by the credits of their sureties, that took them to be honest men, until too late, they found the contrarie. Wee confess it is true, that such debtors by the helps of such teachers, became so subtle, as to get in their hands all they could of their Creditor's rights, and conveyed them to what

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what uses they pleased; and procuring themselves afterwards to bee arrested, where they might bee brought, or removed to the upper Bench, or *Fleet*; made those places their sanctuaries and subterfuges, where they are many thousands in list, but few in custodie, riding, rioting, and spending their Creditor's and Suretie's Estates, sometimes at their own doors, who want for their sakes those blessings to relieve them, which they vainly consume to out-brave them; and sometimes in parts remote and Forrain, more active against this Common-wealth, then for it.

The premises tenderly considered, and for that these men, by these their endeavors declare themselves, and their Judges, and the rest of their rabble, to bee of one fraternitie; and all parties in this matter of our wrongful imprisonments, and guiltie of all

all the Extortions and Oppressions concurrent therewith, and livers, and thrivers thereupon; and therefore no fit Judges in these causes, as further appeareth by their lothness to submit, or give waie to the House, whereof they are over-ruling members, to perform their promises to your Excellence in our behalfs, made many years past, or to restore us, and themselves, to our birth-right, liberties, and freedom, whereof they have robbed us, but are ashamed so to do like thieves and intruders, to deliver their possessions to the right owners. May it therefore please your Honor, in our further behalfs, to cause the House once more to be moved to grant a Commission under the Great Seal, directed to indifferent Commissioners, that shall be no professed Lawyers, Attornies, &c. or persons engaged to publick

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lick employments, Martial, or Civil; but men of understanding, and discretion, undoubted honestie, well-affected to the present Government, to bee nominated by us, and approved by any two, or more Parliament-men; autorising everie two, or more such Commissioners, (not exceeding twelv in all) to deliver all the Gaols of *England* and *Wales*, of all prisoners for debt, forthwith without delaie, compelling all that are able, to paie all or part of their just debts, to paie accordingly, so far as all their goods, (except the beasts of their plough, tools of their trade, and necessarie cloaths and bedding) and two parts of their Lands shall extend, notwithstanding any Conveiance of any such Lands since the debts grew, (except distributions between real Creditors.) And to hear and determine all wrongful Imprisonments,

sonments, Extortions, Briberies, Usuries, Perjuries, Forgeries, Frauds, Deceits, Trespasses, or Oppressions whatsoëver, concerning such prisoners onely, committed, or to bee committed by any person or persons whatsoëver, against them, or any of them, or by any of them against any of their Creditors, throughout *England* and *Wales*, according to the antient Laws and Customs of *England*, confirmed by the great Charter, and Petition of Right, to endure for three years from the date thereof; allowing everie such Commissioner 300^l per annum, above his necessarie expences, for his salarie, in consideration of his pains, and loss in his time, and private affairs; and such fees, and allowances to their Clerks, Messengers, and other necessarie Ministers, as any three of them shall think fit, not exceeding the presidents
of

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of other Courts, in like cases, to bee deducted out of such fines, amerciaments, issues, profits, and perquisits, as shall grow due to the Common-wealth; by their service, as other Courts use to do; and the rest to bee accompted for, to such other publick uses, as the House shall appoint: Which beeing don by your means, the Land shall bee purged of much iniquitie, the Lord's wrath for the same much appeased, your Excellencie, and your Armie gain much happiness, love, and honor, divine, and humane, temporal, and eternal; the Common-wealth regain a Million of monie picked out of their purses by Extorters, Usurers, and common Deceivers; and your Petitioners bee at libertie to fight for their Countrie, and safeguard of those lives of their own with courage and comfort, which as yet they have

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no hope but to lose with care,
and sorrow.

And they, and theirs, as in dutie
bound, shall ever praie, &c.

A Case concerning a matter of Justice.

TO the premises I must add
another Case of no less per-
spicuitie and manifestation of
our Lawyer's actions, then the
former, briefly thus; A Gentle-
man of *Drurie-lane*, ever faith-
ful to the Parliament's service, and
an adventurer of his life and for-
tunes therein, imparted for their
use and the Commonwealths,
3600^l readie monie, upon con-
dition to bee repaied, with law-
ful consideration, in convenient
time, to supply his own occasi-
ons, much subject to oppressions
and injuries offered unto him by
Lawyers, and their Clients; in
which

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which respect it pleased the Parliament to take him into their protection, which hee conceiveth Lawyers sitting Members in the House, advised or consented to bee don, and granted as a lawful and just thing; or had it been otherwise, would have advised the contrarie, and never consented to the same. Now the Gentleman (having received none of his monie, nor any consideration for any part thereof, is forced to borrow monie upon hard terms, of Use, and other Engagements, to buie his Leases late held of the Bishoprick of Elie, to prevent others to deprive him thereof, beeing his main subsistence,) can have no benefit of his protection, from any of them that granted it, or of those Courts wherein they are imploied, and eminently autorised; and the Gentleman and his Estate daily and unduly questioned, yet desireth

reth hee no more then his own,
to defend himself from injustice,
or to bee protected therefrom,
until hee hath his own, and ju-
stice with it, or for it; or that
hee may bee satisfied how neces-
sarie it is, or can bee to this Par-
lament and Common-wealth, or
either to have these men, these
Counsellors, these Advisers, or
rather Devisers of frauds, and
subtleties to delude Truth and
Justice, that will counsel, advise,
devise, or consent things to bee
granted, which they will not
justifie to bee performed by them-
selvs, (except that as in cases of
common concernment, wherein
the partie most suffering ought to
have negation from all) Strata-
gemes are tolerable in war, con-
tinued or tolerated in place or
power, to mis-guide Parla-
ments, as their predecessors have
don Kings in times of peace, or
to bee sole Judges or Interpreters
of

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of their own inventions; no less dangerous to this Republick, and their Estates, then the Exposition of Papistical Impostures, while it was left to the autors, was to our predecessors and their souls. All which is humbly submitted to your Honor's further consideration, with the rest as aforesaid; by the same

Your Honor's

faithful servant,

and observant,

Jo. Jones.

A

A Case concerning Tythes.

FOR the further manifestation of the lawless Imposture, and usurpation of Jurisdiction, Arbitrarie proceeding, and destruction of Proprietie, exercised daily, and generally by Judges, and no Judges at Westminster, and in their Circuits to the debere detation of many, and hazard of all; may summarily appear in that one Case lately adjudged by no Judges legally authorised thereunto, between Sir Matth. Lister Knight, Plaintiff, and Lionel Gelson, Defendant, published in print, partly by Petition, partly otherwise, by the modest and discreet wife, and fellow-sufferer of the Defendant, in the Cause of Ann Gelson: the brief whereof is this; the Plaintiff beeing possessed of the Tythes of a Rectorie, called Burwel, in the Countie of Lincoln, an Impropriation, sometimes parcel of the dissolved College of Totterhal

in

in the said Countie, by virtue of a Conveiance derived from a Grant of King H 8. in which it is mentioned that the said King gave that Rectorie (*cum pertinentiis inter alia*) to the then Duke of Suffolk, and his heirs. And because it is there further mentioned, that the said King gave also to the said Duke the Presentation of the Rectorie of Walmsgate, which is a Parish of it self in another Decenarie, and Wapentack of the said Countie, distinct from, though neighboring to that of Burwel, and founded by the Lord of the Manor of Walmsgate, who then was (as yet the Defendant who claimeth from him, is) Lord of all that Parish in Fee-simple, and gave the Tiue thereof (as well his own, as his Tenants at will) to the Rector for the time being, and his successors for ever, reserving to himself, and his heirs for ever, the Patronage and Presentation; so that when there hapned a neglect of Presentation in him,

him, or in his heirs, the right thereof
fell by laps to the Bishop of Lin-
coln, and upon his neglect, to the
King; which beeing so then, in King
H. 8. bee might grant for that time
to the said Duke: But saving for
that time, or the like relaps, the in-
heritance descended to the Defen-
dant. Now this Inheritance from
the Defendant, and Tithes from the
Incumbent, and his Farmor, are
adjudged to the Plaintiff, by Judges
and Jurors, according to the cours of
Common Law, (as they pretend)
whereas by the Statute 2 Ed. 6. 13.
and many presidents, no right of
Tithes ought to bee tried but by
Ecclesiastical Judges, and Courts
according to Ecclesiastical Laws;
which, though now abolished, the said
Statutes beeing not repealed, the Ju-
dicature is obeied, and yet undispo-
sed of by the Parlament, which onely
can dispose thereof. But in the inte-
rim, such Judges and Jurors, as as-
sume jurisdiction to trie the rights of
Tithes

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Tythes by Common Law, are no Judges, but offenders in Premunire; such trials, no trials, but arbitrarie and lawless Disseisins, and destructions of men's properties; and consequently (if not timely remedied) of the common libertie, rights, and birth-rights of all the Commonaltie of England; And the Defendant can but fear to bee deprived by the same cours, of his whole Manar, and subsistence, as well as hee is of part.

FINIS.

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